



Agenda

Council Meeting

7.00pm, Tuesday 15 November 2022

Richmond Town Hall

Council Meetings

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

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.

Question Time

Yarra City Council welcomes questions from members of the community.

Registration

To ask a question, you will need to register and provide your question by 7.00pm on the day before the meeting. Late registrations cannot be accepted, and you will be unable to address the meeting without registration.

Asking your question

During Question Time, the Mayor will invite everyone who has registered to ask their question. When your turn comes, come forward to the microphone and:

- state your name;
- direct your question to the Mayor;
- don't raise operational matters that have not been previously raised with the organisation;
- don't ask questions about matter listed on tonight's agenda
- don't engage in debate;
- if speaking on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

You will be provided a maximum of three minutes to ask your question, but do not need to use all of this time.

Comments not allowed

When you are addressing the meeting, don't ask a question or make comments which:

- relate to a matter that is being considered by Council at this meeting;
- relate to something outside the powers of the Council;
- are defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable;
- deal with a subject matter already answered;
- are aimed at embarrassing a Councillor or a member of Council staff;
- include or relate to confidential information; or
- relate to something that is subject to legal proceedings.

Addressing the Council

An opportunity exists to make your views known about a matter that is listed on the agenda for this meeting by addressing the Council directly before a decision is made.

Registration

To ask address Council, you will need to register by 7.00pm on the day before the meeting. Late registrations cannot be accepted, and you will be unable to address the meeting without registration.

Addressing the Council

Before each item is considered by the Council, the Mayor will invite everyone who has registered in relation to that item to address the Council. When your turn comes, come forward to the microphone and:

- state your name;
- direct your statement to the Mayor;
- confine your submission to the subject being considered;
- avoid repeating previous submitters;
- don't ask questions or seek comments from Councillors or others; and
- if speaking on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

You will be provided a maximum of three minutes to speak, but do not need to use all of this time.

Comments not allowed

When you are addressing the meeting, don't make any comments which:

- relate to something other than the matter being considered by the Council;
- are defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable;
- are aimed at embarrassing a Councillor or a member of Council staff;
- include or relate to confidential information; or
- relate to something that is subject to legal proceedings.

Arrangements to ensure our meetings are accessible to the public

Council meetings are held on the first floor at Richmond Town Hall. Access to the building is available either by the stairs, or via a ramp and lift. Seating is provided to watch the meeting, and the room is wheelchair accessible. Accessible toilet facilities are available. Speakers at the meeting are invited to stand at a lectern to address the Council, and all participants are amplified via an audio system. Meetings are conducted in English.

If you are unable to participate in this environment, we can make arrangements to accommodate you if sufficient notice is given. Some examples of adjustments are:

- a translator in your language
- the presence of an Auslan interpreter
- loan of a portable hearing loop
- reconfiguring the room to facilitate access
- modification of meeting rules to allow you to participate more easily

Recording and Publication of Meetings

A recording is made of all public Council Meetings and then published on Council's website. By participating in proceedings (including during 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. **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

• Sue Wilkinson	Chief Executive Officer
• Brooke Colbert	Group Manager Advocacy and Engagement
• Malcolm Foard	Director Community Wellbeing
• Ivan Gilbert	Group Manager Chief Executive’s Office
• Gracie Karabinis	Group Manager People and Culture
• Chris Leivers	Director City Works and Assets
• Wei Chen	Director Corporate, Business and Finance
• Mary Osman	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

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

5. Confidential business reports

Nil

6. Confirmation of minutes

RECOMMENDATION

That the minutes of the Council Meeting held on Tuesday 25 October 2022 be confirmed.

7. 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 Mayors Park Tennis and Netball Centre Management	8	19	Sally Jones – Manager Recreation and Leisure Services
8.2 Hearing of submissions in relation to two road discontinuances in Collingwood	20	24	Bill Graham – Coordinator Valuations
8.3 PPE22/0228 - Development Facilitation Program Referral - 31 - 35 Victoria Parade Fitzroy (also 41 Victoria Parade, Fitzroy) - St Vincent's Hospital site	25	80	John Theodosakis - Principal Planner
8.4 Proposal to Declare Land Abutting Sandeman Place Fitzroy as Public Highway	92	99	Ivan Gilbert -Group Manager Chief Executive's Office
8.5 Annual Grants 2023 Recommendations Report	100	105	Michael Van Vliet - Team Leader Community Grants
8.6 Quarterly Annual Plan Progress and Financial Report (to 30 September 2022)	106	116	Julie Wyndham – Manager Corporate Planning and Performance
8.7 Yarra Energy Foundation - Appointment of Chairperson and Directors	117	119	Ivan Gilbert – Group Manager Chief Executive's Office

9. Notices of motion

Item		Page	Rec. Page	Report Presenter
9.1	Notice of Motion No. 8 of 2022 - Yarra Leisure fees and charges off peak rate trial	120	120	Cr Amanda Stone

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 Mayors Park Tennis and Netball Centre Management

Reference	D22/285102
Author	Sally Jones - Manager Recreation and Leisure Services
Authoriser	Director City Works and Assets

Purpose

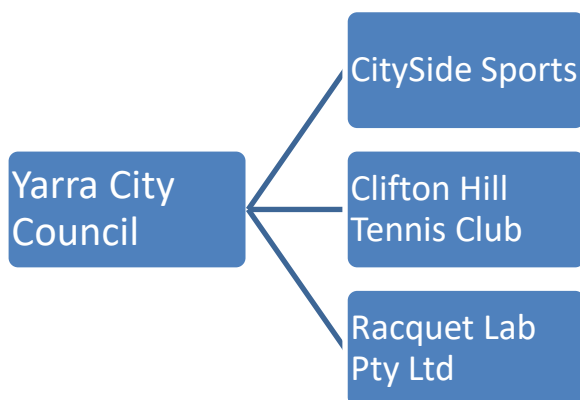
1. The purpose of this Council report is to:
 - (a) Provide Council with an update on the current management model at Mayors Park Tennis and Netball Centre, in response to the Council resolution on 13 August 2019, at which time Council assumed management of the facility;
 - (b) Present Council with options for the future ongoing management of Mayors Park Tennis and Netball Centre, including Officer recommendations; and
 - (c) Identify the most appropriate management model to maximise participation opportunities for the Yarra community and determine an implementation plan.

Critical analysis

History and background

2. Mayors Park Tennis and Netball Centre is located at Mayors Park in Clifton Hill. The facility contains four synthetic tennis courts, two multi-purpose hard courts predominantly used for tennis and netball, a pavilion (including social space, office, kitchen, and toilets/change rooms), a storage shed and external barbecue area.
3. From August 2005 until August 2019, the facility was managed by Mr Jeff Baldassarre of Tennis Information Services (TIS) under a Commercial Management Agreement.
4. On 13 August 2019, Council endorsed a proposal for the Recreation and Leisure Services Branch to manage Mayors Park Tennis and Netball Centre, following extensive engagement with Clifton Hill Tennis Club members, the local community, and Tennis Victoria. It was resolved that Council receive a further report in June 2020 on the success of the transition to this model, in particular the continuity of social tennis programs, as measured through the meeting of KPIs and, where appropriate, user surveys. This report was delayed because of the impacts of COVID-19, which severely limited the use of the facilities in this period and did not demonstrate a period of 'normal' use.
5. On 8 September 2020, Councillors were provided with an update from Officers via memorandum. This provided a summary of facility operations and stakeholder responses to Key Performance Indicators (KPIs), despite interruptions due to COVID-19. The memorandum stated that, *"The Recreation team proposes reporting back to Councillors after a further 12-month period of operation at Mayors Park Tennis and Netball Centre following easing of COVID-19 restrictions so as to allow the Club and coaches the opportunity to properly address their KPIs"*.
6. Facility use continued to be severely limited in 2021 due to the COVID-19 pandemic. As a result, the report was again deferred until October 2022, with the intention to allow assessment of an uninterrupted 12-month period of 'normal' operation.
7. Council made a significant financial contribution to the facility after taking over management, including a new court booking system and automated access, both of which were identified as a priority during the consultation period.

8. Since the transition of management, Agreements have been established between Council and three key stakeholders at Mayors Park Tennis and Netball Centre; Clifton Hill Tennis Club, CitySide Sports and Racquet Lab Pty Ltd. All stakeholders report to Council as the Facility Manager, via the Recreation team.
9. Current management structure:



10. CHTC members receive priority access to tennis courts and can book courts up to 14 days in advance at no additional cost to their club membership fee (i.e., CHTC members pay no fees for casual court hire).
11. Casual court hire is available to the public six days in advance at a cost of \$31.60 per hour in peak times (after 5pm from Monday to Thursday and 8am-5pm on Saturday/Sunday), and \$26.00 per hour in off-peak times.
12. Through the 2021/22 financial year, Council received a total of \$100,935.65 revenue from court hire and Licence/Agreement fees. Expenses (including utilities and maintenance) totalled \$58,139.43, resulting in an operating surplus of \$42,796.22, noting operating costs do not include corporate overheads or capital expenses.

CitySide Sports

13. CitySide Sports are a commercial netball provider, operating under an annual Hirer Agreement with Council.
14. Netball competitions are run on the two multi-purpose courts from 6:00pm to 10:30pm, Monday to Thursday, totalling 36 hours per week. Competitions run approximately 49 weeks of the year, with a short break over the Christmas and New Year period.
15. CitySide Sports provide for 150+ participants on a typical night of competition, which includes a majority of female participants.
16. CitySide Sports have provided a letter expressing their support for the current management arrangements to continue – this letter can be found as Attachment 4.

Clifton Hill Tennis Club (CHTC)

17. CHTC are a not-for-profit community sports club, operating under a Crown Licence Agreement with Council.
18. CHTC (formerly Clifton Tennis Club) have been based at Mayors Park Tennis and Netball Centre since the club was formed in 1929.
19. CHTC currently has 574 active members.
20. Full membership for CHTC costs \$200 p.a. per adult, \$90 p.a. for a junior/student membership and \$300 p.a. for a family membership (3 or more), with a 20% discount applied for valid concessions. Further discounts are also offered for off peak memberships - \$85 p.a. for an adult off-peak membership. Membership provides access to courts at no cost and allows priority booking of the facilities, in addition to a number of other club benefits.

21. Prior to Council's decision in August 2019, CHTC did not hold an Agreement directly with Council, rather their Agreement was with the former Facility Manager, TIS.
22. CHTC and TIS had a strained working relationship and Officers were regularly required to be involved in mediation between the parties. Prior to presenting management options to Council in 2019, Officers undertook extensive community consultation on the management of the facility, resulting in an Officer recommendation and Council's decision to transition to the current management model.
23. Following Council's decision in August 2019, CHTC moved from an Agreement with TIS to a direct Agreement with Council. CHTC were supportive of this decision at the time of implementation and viewed it as an improvement from the previous arrangement, as it allowed them to run their own programs and create a positive club environment, which had been difficult due to the strained relationship with TIS.
24. The initial Crown Licence Agreement with CHTC was executed in October 2019 for a 12-month period, expiring in October 2020; thereby allowing Officers to assess the success of the new management model, noting CHTC were responsible for pavilion cleaning and maintaining the cleanliness of tennis courts and surrounding areas under the terms of the Agreement. All other maintenance items were Council's responsibility.
25. Due to the uncertainty caused by COVID-19, the Agreement was not re-negotiated in October 2020 because a proper assessment of the management model was not possible.
26. Discussions regarding the renewal of the Agreement in mid-2021 did not progress. As at this time, CHTC had made it clear that their preference now was to manage Mayors Park Tennis and Netball Centre directly.
27. On 16 June 2022, CHTC were provided with a draft Crown Licence Agreement that replicated the terms of the previous Agreement with the significant alteration that Council would take on responsibility for pavilion cleaning, following CHTC's advise that they, "*can no longer justify the ongoing effort of committee members to ensure effective cleaning of the facility*". Officers note the draft Agreement was intended as an interim arrangement until a Council decision was made on the future management of the site; however, this has not progressed.
28. Following Council's decision in 2019, the working relationship between CHTC and the Recreation team advanced. However, extensive interruptions to facility operations during COVID-19 lockdowns occurred between 30 March 2020 and 21 October 2021, halting the momentum that had been made under the new management model. CHTC have since indicated a change in their position and no longer support the current management model. This has resulted in advocacy towards Councillors to seek a change in the management model for the facility.
29. On 23 July 2021, CHTC directly emailed Councillors with the report, '*2020-21 Two Years After Council May 2019 Decision*'. Of note, the report's introduction complimented Council, stating, "*Despite a challenging transition in 2019, major lightning strike in January 2020, the ongoing pandemic challenges throughout 2020-2021, the decision made by Councillors in May 2019 has being [sic] widely viewed as successful. It has engaged a community, liberated a stranded asset and driven active participation to record levels.*"
30. However, CHTC also expressed some concerns in the report including:
 - (a) A desire to appoint a 'Caretaker' to manage on-site issues;
 - (b) A desire to align closer to the management structure of Fitzroy Tennis Club, who operate under an exclusive Lease Agreement with Council;
 - (c) A desire to appoint and manage their own tennis coaches; and
 - (d) Further investment in LED court lights.

31. This reflected a clear change in position from the club and indicated the preference of the club was for CHTC to be offered exclusive management rights. This was again expressed via letter to Councillors, on 1 October 2021. Following a meeting between CHTC, Council Officers and Cr de Vietri, as Mayor of the day, on 4 November 2021, CHTC sent another letter on 5 November 2021 to reiterate their position.
32. It is important to note that there is an expectation of mutual respect between Council staff and stakeholders and the relationship with CHTC has been somewhat strained. Whatever management arrangements are determined by Council for the MPTNC, Council will need to have mechanisms in place to ensure all parties behave in a way that is appropriate and respectful.
33. CHTC pays Council an annual fee for facility hire, which allows the club to book senior and junior competitions, pennant and social programs as agreed upon in the terms of the Crown Licence Agreement. This fee also allows CHTC members to book courts at no additional cost, anytime during opening hours, subject to court availability.

CHTC assessment against KPIs

34. As part of establishing the new management arrangements in August 2019, Key Performance Indicators (KPIs) were established with CHTC outlining expectations for the club's development. The KPIs were agreed upon by the CHTC committee and linked to their Agreement. CHTC provide annual progress reports on their KPIs. Please refer to Attachment 2 – *CHTC KPI 2021-22 Report* for details.
35. In relation to this CHTC KPI report, Officers note:
 - (a) Throughout the report, CHTC provide a summary of the strong participation outcomes Mayors Park Tennis and Netball Centre has experienced in the last financial year. These outcomes are a positive reflection of the current management model;
 - (b) Throughout their submissions, CHTC have referred to Fitzroy Tennis Club as a good comparator; Officers do not see this as a reasonable comparator. Mayors Park Tennis and Netball Centre is a multi-sport facility, providing courts for tennis and netball (and can be used for Futsal) and in this regard operates more like Ryan's Reserve, which is managed by Council;
 - (c) In KPI 5.1, CHTC focuses on Racquet Lab's coaching program, rather than strategies and plans for CHTC to increase junior participation and club competition numbers;
 - (d) In relation to KPI 5.3;
 - (i) When the Book a Court management system was first installed, automated court lighting was trialled at the facility. Following ongoing issues with the reliability of court lights, a timer as installed on the lights in July 2020. CHTC were engaged throughout the transition to install a timer, which has significantly reduced these issues;
 - (ii) Officers have consistently communicated with CHTC regarding future planning for installation of LED court lights once the current metal halide lights reach the end of their natural life. The current metal halide lights were audited by lighting experts in November 2021 and were considered functional and safe;
 - (iii) The courts are lit from dusk until 11pm every night, providing a safe and welcoming environment for facility users. While courts are often booked to capacity during these times, particularly from Monday to Thursday, lights remain in use during inclement weather, when courts are not booked and/or when bookings are made but players do not show. Officers note that metal halide lighting is not designed to be switched on and off at regular intervals, as it impacts reliability, functionality and lifespan. To discard functional lighting prior to end of life is considered to have a greater environmental impact than continuing to use metal halide lighting. Therefore, the current lighting set up is considered the most practical option for the site until it reaches the end of its natural life;

- (iv) The information Officers have provided to CHTC is based on expert advice and Council's asset management practices; and
- (e) Whilst CHTC has responded to each KPI and some positive outcomes have been identified, in a number of cases, evidence has not been provided to confirm achievement of the relevant KPI.

Racquet Lab Pty Ltd (Racquet Lab)

- 36. Racquet Lab are a commercial tennis coaching provider, operating under an Independent Contractor Agreement with Council.
- 37. Racquet Lab were appointed in October 2019 following a procurement process once Council took over management of the site.
- 38. Tennis Victoria provided tennis knowledge and expertise in the procurement process, and supported Officers' decision to appoint Racquet Lab.
- 39. Racquet Lab pays Council a negotiated fee for the exclusive coaching contract at Mayors Park Tennis and Netball Centre. This fee entitles Racquet Lab to book up to 12 hours of peak weekday court use (Monday to Thursday after 4pm), and up to 16 hours of peak weekend court use (Saturday and Sunday from 8am to 6pm). Additional programs run during off-peak times are unrestricted to encourage the utilisation of courts at times when participation is typically low.
- 40. Court access was negotiated with Racquet Lab during the procurement process following input from CHTC and Tennis Victoria. The annual fee was also negotiated as part of the procurement process to align with the level of court access Racquet Lab receives and industry standards at similar tennis facilities.
- 41. Racquet Lab also deliver a successful tennis coaching program at Fitzroy Tennis Club and are highly regarded in the industry. Fitzroy Tennis Club have provided a letter of support for Racquet Lab, see Attachment 5: *Racquet Lab Reference Letter – Fitzroy Tennis Club*.
- 42. Racquet Lab provided the following summary of their programs relating to coaching figures from term 3, 2022; *"Racquet Lab currently have 708 total active students in classes for the quarter. That includes people in group and private lessons, and people registered for the last holiday program. If players do not resume their lessons from quarter to quarter, they are placed on the inactive list. We have 222 unique students having term lessons at MPTNC (Mayors Park Tennis and Netball Centre), and 259 unique students at FTC (Fitzroy Tennis Club). These numbers are smaller than the students in classes figure as many students have multiple lessons. 53% of our players identify as male and 45% of our players identify as female."*
- 43. Racquet Lab have provided a statement summarising their experiences at Mayors Park Tennis and Netball centre since being appointed in 2019. Racquet Lab are supportive of the current management model, stating; *"Due to the multiple sports and numerous stakeholders utilising the space we believe City of Yarra are essential in maintaining a balanced and diplomatic environment. Tennis is extremely strong in the area under the current model and our lessons are consistently at full capacity during peak times"*. The full statement can be viewed in Attachment 3: *MPTNC Coaching Statement – Racquet Lab*.

Discussion

- 44. Officers recommend the following management model priorities:
 - (a) Maximising participation in tennis, netball and other court-based sports;
 - (b) Creating more opportunities for under-represented cohorts (as listed in Yarra's Social Justice Charter) to access the facilities, including:
 - (i) Aboriginal and Torres Strait Islander people;
 - (ii) Children and younger people;
 - (iii) Older people;

- (iv) People with disabilities;
 - (v) People from culturally and linguistically diverse (CALD) backgrounds;
 - (vi) People of diverse faiths and religions;
 - (vii) People from the LGBTIQ+ community;
 - (viii) People experiencing homelessness;
 - (ix) People on low incomes;
 - (x) People who use drugs;
 - (xi) People experiencing mental health issues;
 - (xii) Refugees and people seeking asylum;
 - (xiii) Women;
- (c) Prioritising access for stakeholders who address the Allocation Framework Criteria outlined in the Yarra Sportsgrounds and Facilities Allocations Policy, endorsed by Council on 10 May 2022. These themes include:
- (i) Community First;
 - (ii) Inclusion and Diversity;
 - (iii) Financial Management;
 - (iv) Governance;
- (d) Establishing an efficient and effective approach to facility management, resulting in a clean, safe and functional facility;
- (e) Establishing a management model which supports best practice asset management principles and ongoing financial investment in all Council assets at Mayors Park Tennis and Netball Centre;
- (f) Creating a harmonious, welcoming environment for all stakeholders; and
- (g) Meeting industry standards for both tennis and netball.

45. Tennis Victoria has provided Officers a summary of the management models available for consideration – Venue Management Models – Tennis Victoria:

	Club/Coach Model	Operator Model	Commercial Operator Model
Committee in place?	Yes	Yes	No
Tenure Structure	Club holds the lease or licence with Landowner	Club holds the lease or licence with Landowner	Operator holds the lease, licence or contract with Landowner
Operations	Delivered by volunteer committee	Typically, a professional coach or management company manages the facility on behalf of the clubs which retains its tenure with the landowner Someone/an entity is paid to operate all or aspects of the facility, but still a committee in place	Commercially operated facility which typically involves paid operational and coaching staff to deliver tennis and additional facility offerings (i.e., café) No committee in place

<p>Pros</p>	<ul style="list-style-type: none"> • Both club and coach work hand in hand with the club to drive participation and have a clear pathway Fee to the club for use of facilities • Community feel, representative of community 	<ul style="list-style-type: none"> • Increased community access and program range • Club not responsible for operational costs • Club relinquishes day to day operations, less volunteer workload 	<ul style="list-style-type: none"> • Professional operation • Increased accessibility - although less an issue with BAC • Maximises participations opportunities
<p>Cons</p>	<ul style="list-style-type: none"> • Can be difficult to financially fund capital works • Volunteer workload 	<ul style="list-style-type: none"> • Added layer of operation (club, coach, management company, council) can confuse communication 	<ul style="list-style-type: none"> • Can lose the community connection • Quality of tennis program can be impacted • No committee to represent views of the community

46. Tennis Victoria describes Mayors Park Tennis and Netball Centre as a ‘hybrid’ of the Club/Coach and the Commercial Operator models.

47. Tennis Victoria summarised the current status of the facility as follows; *“The current operations at MPTNC are considered healthy and achieving strong outcomes for tennis at venue across coaching, court hire and club-based programming”*.

Options

48. Based on advice from the State Sporting Association, Tennis Victoria, Officers believe there are three potential options for management of Mayors Park Tennis and Netball Centre:

49. **Option 1 - Club/Coach Model (not recommended)**

- (a) CHTC would manage the facility under a Crown Lease Agreement;
- (b) Tennis coaches would be appointed by CHTC and hold an Agreement directly with CHTC;
- (c) CitySide Sports and/or other commercial operators would be allocated court space, with access requirements outlined in the CHTC Crown Lease;
- (d) CHTC would receive revenue from casual court hire;
- (e) CHTC would take on all day-to-day operating and maintenance expenses and contribute annually to a sinking fund to be used for capital improvements; and
- (f) Council would manage all capital works planning, delivery and the associated budget requirements.

50. **Option 2 - Operator Model (not recommended)**

- (a) Council Officers would manage the facility;
- (b) Council would conduct an open Expression of Interest (EOI) process inviting sports clubs and organisations with an interest in utilising and hiring Mayors Park Tennis and Netball Centre for the accepted purposes/uses of the site;
- (c) Sports clubs and/or other commercial operators including CitySide, would enter into Hire Agreements to book court and pavilion access for competitions and club activities;
- (d) Tennis coaches would be appointed by Council under an Independent Contractor Agreement;
- (e) Officers would coordinate all operations and maintenance at Council’s expense; and

- (f) Council would manage all capital works planning, delivery and the associated budget requirements.

51. **Option 3 - Hybrid Model (recommended):**

- (a) Council Officers would manage the facility with specific responsibilities designated to CHTC as the sole not-for-profit sports club tenant;
- (b) CHTC would enter into a Crown Licence Agreement with Council;
- (c) CHTC would have designated court space allocated for competitions and social programs, as agreed under the terms of the Crown Licence;
- (d) Tennis coaches would be appointed by Council under an Independent Contractor Agreement;
- (e) CitySide Sports and/or other commercial operators to enter into Hire Agreements with Council to book court space for competitions;
- (f) Officers would coordinate all maintenance at Council's expense, with input from tenants; and
- (g) Council would manage all capital works planning, delivery and the associated budget requirements.

Option assessment

- 52. Officers do not recommend Option 1 (Club/Coach Model) and do not believe CHTC has demonstrated the ability to manage the facility, or that they are best placed to deliver on the Council objectives, including the development of positive and productive relationships with key stakeholders.
- 53. Officers do not recommend Option 2 (Operator Model) as this would require an open EOI process, which would open the management to a range of providers – potentially community based or commercial operators – and would potentially lead to the exclusion of CHTC, which would fail to acknowledge the extensive historical connection that CHTC has with Mayors Park Tennis and Netball Centre.
- 54. Consequently, Officers believe the best outcome for Mayors Park Tennis and Netball Centre would be realised by retaining the current management model (Hybrid Model) – Option 3. Officers note, Tennis Victoria summarised the current operations at Mayors Park Tennis and Netball Centre as, "... *healthy and achieving strong outcomes for tennis at venue across coaching, court hire and club-based programming*". This management model is supported by other stakeholders, including Cityside Sports and Racquet Lab, who have operated for the facility under this model since 2019. Further, CHTC reports member satisfaction rates generally exceed 90% in most areas, indicating strong levels of satisfaction with the current management structure.

CHTC Management proposal

- 55. CHTC submitted a management proposal to Council on 21 September 2022 - refer to Attachment 1: *CHTC Management Model Proposal*.
- 56. On 27 September 2022, Officers met with CHTC and Tennis Victoria to discuss details of CHTC's preferred management model.
- 57. After reviewing the details of CHTC's proposal, Officers note the following:
 - (a) CHTC provide two options for future facility management, indicating a strong preference for Option 1, which is a variation of the Club/Coach Model;
 - (i) Option 1 – Club Manages Facility (recommended); and
 - (ii) Option 2 – Council Manages Facility (not recommended);
 - (b) CHTC does not support Option 2, stating that if Council is to continue to manage the facility, the club will be forced to change their membership structure and reduce membership numbers by approximately 50% (from 546 to 276 members), to reduce the

workload on the club committee. Officers do not see any evidence to support CHTC's claims. Further, Officers do not believe CHTC's rationale reflects sports club norms and practices, or Council's participation objectives, and would not be considered a positive outcome for the community;

- (c) Based on CHTC's statement that club membership numbers would be halved should Council continue to manage the facility, CHTC have provided figures to show that the overall court usage would reduce from 60-65% to 30-35%. Again, Officers do not believe there is any evidence to support this assumption. Officers note, however, that should CHTC membership reduce by ~50%, it would result in less club members using the courts free of charge but would provide casual community members the opportunity to gain more access to courts, noting these users pay a casual, per hour rate;
- (d) CHTC propose a budget of \$78,000 per annum to pay a 'Caretaker' and a budget of \$38,000 per annum to pay a 'System Administrator', which Officers do not believe is necessary, nor warranted;
- (e) In Chart 5, CHTC show that member satisfaction rates generally exceed 90% in most areas, indicating that there are very few concerns with how the facility is managed;
- (f) In Chart 7, CHTC have indicated they offer 21 programs; Officers note five of these are delivered by Racquet Lab as part of their coaching program, while others are pre-established casual hire groups, which are referred to as CHTC social programs for logistical purposes;
- (g) In Chart 8, CHTC show that annual court utilisation of 60% is the highest on record for the facility, and state that, "*The club created most of the growth, followed by public court hire*". While not discrediting the contribution made by CHTC in growing their membership base, the statistics provided show that there has been a noticeable increase in court utilisation since Council funded the installation of the Book a Court management system in 2019. Further, it should be noted that there is a strong incentive for casual players to join as a CHTC member as it provides a much cheaper alternative than paying for casual hire of the courts (the costs of an Adult CHTC annual membership equates to less than seven (7) hours of court use, if paying as a casual user, or less than four (4) hours for off-peak membership);
- (h) The CHTC management proposal indicates it would improve/increase court utilisation and capital investment, without providing an explanation for how this would be achieved;
- (i) Additionally, no information was provided on how CHTC would work collaboratively with stakeholders, including Council, to support their proposed management model and maximise community benefit; and
- (j) CHTC has indicated that Option 1 would include club management of capital projects, which is inconsistent with management practises at other Yarra sports facilities and is not supported by Officers.

Community and stakeholder engagement

- 58. The community was engaged in consultation in February and March 2019, prior to the change in management model. Asked how the City of Yarra could best offer support into the future, the response was overwhelmingly related to ensuring fair access to courts, an improved facility management arrangement and booking system.
- 59. CHTC, CitySide Sports and Racquet Lab have been engaged throughout the process as the three key stakeholders currently operating from Mayors Park Tennis and Netball Centre. All stakeholders have contributed vital feedback for the development of this report.
- 60. CHTC have provided a preferred management model for Council consideration. Refer to Attachment 1 – *CHTC Management Model Proposal*.
- 61. Racquet Lab have provided feedback on their preferred management model, which is a desire to maintain a level of separation between themselves and CHTC, due to the

challenges they have experienced in the relationship. Refer to Attachment 3 – *MPTNC Coaching Statement - Racquet Lab*.

62. CitySide Sports have outlined their preferences to maintain the current Hybrid management model at the site in Attachment 4 – *CitySide Sports Reference Letter*.
63. Fitzroy Tennis Club have provided a reference letter for Racquet Lab, having used their coaching services since 2018. See Attachment 5 – *Racquet Lab Reference Letter – Fitzroy Tennis Club*.
64. Officers have also engaged Netball Victoria to understand the level of interest they have in the operations at Mayors Park Tennis and Netball Centre. Currently, the priority for Netball Victoria in Yarra is to establish strong netball programs at the new Fairlea site at Yarra Bend, and at Ryan's Reserve. However, Netball Victoria would be interested in exploring further opportunities in future, such as a netball club presence and/or the potential to use Mayors Park Tennis and Netball Centre as a club training venue.

Policy analysis

Alignment to Community Vision and Council Plan

65. Council Plan 2021-25: Objective two, Strategy 2; Objective four, Strategies 1 and 2; Objective 6, Strategies 3 and 4.

Climate emergency and sustainability implications

66. Sustainable asset management principles should be considered in the decision on a future management model for Mayors Park Tennis and Netball Centre.
67. An upgrade of court lighting from metal halide to LED is planned once this infrastructure reaches the end of its useful life.

Community and social implications

68. The proposed management model is designed to enable harmonious management of the facility, whilst maintaining high levels of participation.

Economic development implications

69. There are no anticipated economic development implications.

Human rights and gender equality implications

70. Inclusion and diversity is identified in the Allocation Framework Criteria within the Yarra Sportsgrounds and Facilities Allocations Policy; this Policy informs the KPIs for sports clubs utilising these facilities. This should also be a key consideration when determining the most appropriate management model for Mayors Park Tennis and Netball Centre to ensure people of all genders have an equal opportunity to access the facilities.
71. Stakeholders are required to provide Council with participation figures on an annual basis and work to achieve KPIs, including participation targets.

Operational analysis

Financial and resource impacts

72. In the 2021/22 financial year, Council received \$100,935.65 in revenue from hirers at Mayors Park Tennis and Netball Centre. This includes revenue from CitySide Sports, casual court hire, Racquet Lab and CHTC.
73. Expenses including utilities and maintenance, totalled \$58,139.43, resulting in an operating surplus of \$42,796.22. Operating costs do not factor in Council's corporate overheads, or Officer time, which has not been insignificant.
74. The three management models presented as options all have varied impacts on the financial viability of the facility. The following revenue and expense lines would need to be considered as part of this process and delegated appropriately:

- (a) Revenue:
 - (i) CHTC facility hire fees;
 - (ii) CHTC sinking fund towards capital improvements (if necessary);
 - (iii) Racquet Lab / tennis coaching provider Independent Contractor Agreement fees;
 - (iv) CitySide Sports / netball provider court hire fees; and
 - (v) Casual court hire income;
- (b) Expenses:
 - (i) Building maintenance (reactive and scheduled);
 - (ii) Tennis court and net maintenance;
 - (iii) External grounds maintenance;
 - (iv) Utility bills;
 - (v) Book a Court management system and associated infrastructure; and
 - (vi) Cleaning costs; and
- (c) It is proposed that Council would continue to manage all capital works planning, delivery and the associated budget requirements regardless of the management model in place.

Legal Implications

- 75. Whilst acting as the Committee of Management at Mayors Park Tennis and Netball Centre, Licence Agreements must receive approval from DELWP.
- 76. CHTC, Racquet Lab and CitySide Sports all hold public liability cover (\$20 million).
- 77. All individual casual court hirers must use the Tennis Australia booking system to book court access, which provides them with cover under Tennis Australia's public liability insurance.
- 78. Council's management of Mayors Park Tennis and Netball Centre constitutes normal course of business; therefore, public liability for patrons is also provided via Council's current insurance arrangements.

Conclusion

- 79. Officers believe the best outcome for Mayors Park Tennis and Netball Centre can be achieved by maintaining the current management model (Hybrid Model). This would ensure that a club that has been operating at Mayors Park Tennis and Netball Centre since 1929 maintains an historical connection with the facility and local community. Additionally, the local community and membership base would not be negatively impacted or, in fact, notice any material changes to current arrangements (i.e., ostensibly, Officers are proposing that there would be no significant change to court and pavilion access, and fees and charges).
- 80. Officers acknowledge that COVID-19 has made normal operations difficult; however, since normal operations have resumed, and as outlined in paragraph 35 above, Officers have concerns about CHTC's performance against the established KPIs, and do not believe CHTC has demonstrated that it is a club that is well placed to manage Mayors Park Tennis and Netball Centre, or that they are best placed to deliver on Council's objectives at the site.
- 81. Officers note there is no evidence that a change of management model would result in improved relationships between stakeholders; nor that this would increase participation in tennis or netball.
- 82. Tennis Victoria are supportive of a range of management models and suggest that each tennis facility across Victoria should be assessed individually to determine the most appropriate management model to support the continued growth and development of tennis.

83. Officers do not recommend the Club/Coach Model (Option 1) or the Operator Model (Option 2) due to the issues outlined in this report.
84. Consequently, Officers recommend maintaining the current hybrid model at Mayors Park Tennis and Netball Centre.

RECOMMENDATION

1. That Council:
 - (a) acknowledge the significant contribution of volunteers towards the continued success of community sport in Yarra, including through the efforts of the CHTC committee;
 - (b) endorse the proposed hybrid model of management for Mayors Park Tennis and Netball Centre (Option 3 in this report), to be managed by the Recreation and Leisure Services Branch; and
 - (c) supports the development of new agreements with key stakeholders, Clifton Hill Tennis Club, Racquet Lab Pty Ltd and CitySide Sports, which reflect these arrangements.

Attachments

- 1 Attachment 1 - CHTC Management Model Proposal
- 2 Attachment 2 - CHTC KPI 2021-22 Report
- 3 Attachment 3 - MPTNC Coaching Statement - Racquet Lab
- 4 Attachment 4 - CitySide Sports Reference Letter
- 5 Attachment 5 - Racquet Lab Reference Letter - Fitzroy Tennis Club

8.2 Hearing of submissions in relation to two road discontinuances in Collingwood

Reference	D22/293601
Author	Bill Graham - Coordinator Valuations
Authoriser	Director Corporate, Business and Finance

Purpose

1. To provide an opportunity to be heard to each person who made a request under section 223(1)(a)(iv) of the Local Government Act 1989 to be heard in support of their submission made in relation to:
 - (a) the discontinuance of part of Otter Street, Collingwood; and
 - (b) the discontinuance of part of Cambridge Street, Collingwood.
2. This report further recommends that Council schedule an Extraordinary Council Meeting for 6.00pm on Tuesday 22 November 2022 to make a decision in relation to these road discontinuances.

Critical analysis

History and background

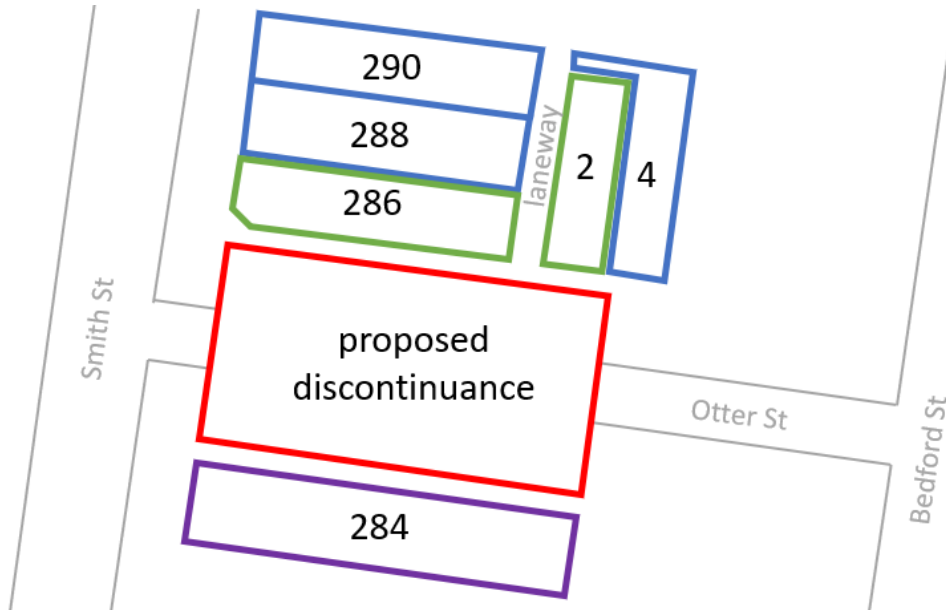
3. Following the announcement of a proposal to develop two new pocket parks in Collingwood through the Victorian Government Local Parks Program, concept plans for parks in Otter Street Collingwood and Cambridge Street Collingwood were developed based on community feedback and presented to the broader community for review.
4. In order to proceed with these proposals, Council first needs to undertake the statutory processes associated with the discontinuance of the affected sections of road and consider the views and any submissions made by persons affected by the proposals.
5. At the Council meeting on 13 September 2022, Council commenced the statutory processes in relation to the necessary road discontinuances in two separate resolutions. The statutory consultation process commenced shortly afterward, and resulted in a number of submissions from members of the public.
6. Three submitters requested the opportunity to address the Council in relation to their submission regarding the Cambridge Street closure, and two submitters requested to the opportunity to address the Council in relation to the Otter Street closure.

Discussion

Otter Street

7. The section of road that is the site of the proposed new Otter Street park that first needs to be discontinued is shown in *Figure One*.
8. Council proposes to discontinue the road and retain the land comprising the road for public open space purposes including the proposed construction of a public park. As part of the proposal, two pedestrian pathways (each comprising a 2.4 metre wide section of Otter Street directly to the north and south of the road) will remain as a road for pedestrian access to Smith Street from the balance of Otter Street and to provide pedestrian access to adjoining properties.

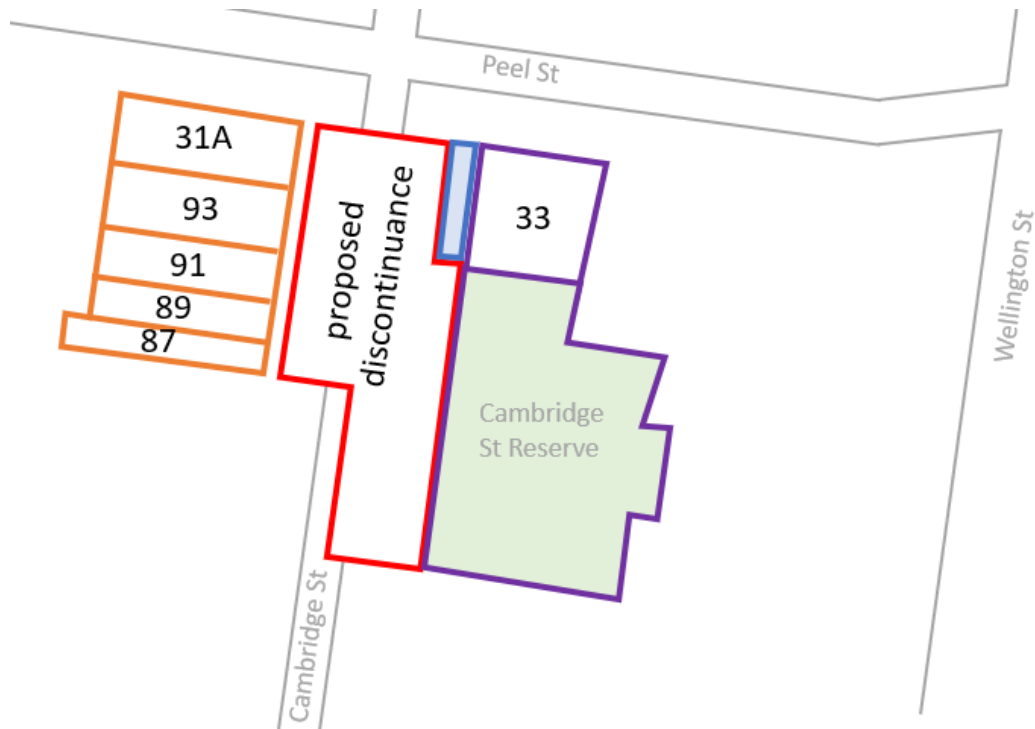
Figure One - Otter Street Park Site Plan



Cambridge Street

9. The section of road that is the site of the proposed new Cambridge Street park that first needs to be discontinued is shown in *Figure Two*.
10. Council proposes to discontinue the road and retain the land comprising the road for public open space purposes including the proposed construction of a public park. As part of the proposal, a pedestrian pathway (comprising a 1.8 metre-wide section of Cambridge Street) will remain as a road for pedestrian access to Peel Street from the balance of Cambridge Street; and a pedestrian carriageway easement will be created over part of the road.

Figure Two - Cambridge Street Park Site Plan



Options

11. This report follows on from a process undertaken as a result of the Council resolutions made on 13 September 2022. There are no options presented in this report as Council is now legislatively required to provide an opportunity for submitters to be heard in relation to the matter.

Community and stakeholder engagement

12. Following the announcement to develop two new pocket parks in Collingwood, concept plans for both parks were developed based on community feedback and presented to the broader community for review.
13. Approximately 2,000 residents and stakeholders were informed about the online consultation by way of a flyer which outlined ways to obtain more information and provide feedback.
14. The final concept design proposals were presented to Councillors in February 2022.
15. The broad engagement process relating to the siting and design of these new parks is a separate process to the targeted consultation with potentially affected landowners and occupiers that is the subject of this report.

Otter Street

16. Following Council's resolution 13 September 2022, a public notice was placed in the Age Newspaper on 16 September 2022. A copy of the public notice can be found at **Attachment One**.
17. A copy of the public notice was:
 - (a) placed on Council's website; and
 - (b) displayed on-site in large poster form.
18. By letter dated 19 September 2022, Council informed various owners and occupiers of properties in the vicinity of the road of the proposal and provided them with a copy of the public notice inviting them to make a submission.
19. Following the publication of the public notice, nine submissions were received by Council by the closing date, being 14 October 2022. A summary list of submissions and a copy of submissions received by Council are attached as **Attachment Two**.
20. The authors of Submission 5 and Submission 8 requested the opportunity to be heard in relation to their submission and have been invited to address the Council at this meeting.

Cambridge Street

21. Following Council's resolution 13 September 2022, a public notice was placed in the Age Newspaper on 16 September 2022. The public notice included the proposed discontinuance of the Road and its retention by Council and the proposed grant of Easement. A copy of the public notice can be found at **Attachment Three**.
22. A copy of the public notice was also:
 - (a) displayed in large poster form on-site; and
 - (b) published on Council's website.
23. By letter dated 19 September, Council informed various owners and occupiers of properties in the vicinity of the road of the proposal, provided a copy of the public notice and invited them to make a submission regarding the proposal.
24. Following the publication of the public notice, 13 submissions were received by Council by the closing date being 14 October 2022. A copy of submissions received by Council can be found at **Attachment Four**.
25. The authors of Submission 2, Submission 5 and Submission 8 requested the opportunity to be heard in relation to their submission and have been invited to address the Council at this meeting.

Policy analysis

Alignment to Community Vision and Council Plan

26. The Yarra 2036 Community Vision contain the theme “Shared Spaces”, which commits Council to strive toward spaces that connect communities, businesses and cultures together. They reflect our community’s diverse voices. The specific priorities that are supported by the proposals in this paper are:
- “7.1. All our shared spaces are made physically accessible and welcoming to people of all abilities, linguistic, cultural backgrounds and age groups.*
 - 7.2. Community meeting spaces, service buildings, and facilities evolve and adapt to reflect changing needs of our diverse community.*
 - 7.3. Create and innovate solutions to maximise the use of under or unused streets and spaces.*
 - 7.4. Increase availability and diversify use of open spaces to address existing shortages and respond to population growth.”*
27. The City of Yarra Council Plan 2021-2025 includes the theme “Place and Nature” which builds on the Community Vision by including specific initiatives to expand and improve public space and build a network of green spaces that contribute to a liveable and sustainable Yarra. Among the specific initiatives are:
- a) Deliver projects that enhance access to nature by finding new and novel opportunities for urban greening*
 - b) Plan, design, deliver and maintain high quality open spaces, parks and reserves including the creation of seven new or expanded parks” and*
 - l) “Reduce urban heat island effect through the planting of trees and vegetation and an increase of green open space*
 - m) Reallocate space from on-street parking to space for nature, active and public transport, outdoor dining and placemaking”*

Climate emergency and sustainability implications

28. Not addressed in the development of this report.

Community and social implications

29. Not addressed in the development of this report.

Economic development implications

30. Not addressed in the development of this report.

Human rights and gender equality implications

31. Not addressed in the development of this report.

Operational analysis

Financial and resource impacts

32. Costs associated with the proposed discontinuances will be accounted for within existing Council budgets.

Legal Implications

33. Council is empowered under Schedule 10 of the Local Government Act 1989 to discontinue a road, or part of a road, by a notice published in the Government Gazette. This process first requires a formal submissions process in accordance with section 223 of that Act. It is section 223(1)(b) that requires Council to provide each person who has lodged a submission which includes a request to address the Council with the opportunity to be heard in support of their submission.

34. Chapter Two, Rule 54.1 of the Yarra City Council Governance Rules provides that there must be an opportunity for members of the public to address Council in relation to every matter included on the agenda at an Ordinary Council Meeting, with the exception of matters that are subject to a statutory process that provides a right to make a submission or otherwise be heard (such as, but not limited to section 223 of the Local Government Act 1989).

Conclusion

35. Before considering the officer's recommendation below, Council should invite the authors of the following submissions to address Council in accordance with section 223(1)(b) of the Local Government Act 1989 and Chapter Two, Rule 54.1 of the Yarra City Council Governance Rules:
- (a) Otter Street, Submission 5
 - (b) Otter Street, Submission 8
 - (c) Cambridge Street, Submission 2
 - (d) Cambridge Street, Submission 5
 - (e) Cambridge Street, Submission 8
36. No further submitters should be heard at this meeting.
37. Further, an extraordinary Council Meeting should be scheduled for 6.00pm on Tuesday 22 November 2022 for Council to consider the submissions made and make a final decision on the matter. This timing will enable to projects to proceed in a timely fashion.

RECOMMENDATION

1. That Council note:
 - (a) the written submissions at **Attachment Two** in relation to the proposed partial discontinuance of Otter Street Collingwood;
 - (b) the oral submissions made by submitters at this meeting in relation to the proposed partial discontinuance of Otter Street Collingwood;
 - (c) the written submissions at **Attachment Four** in relation to the proposed partial discontinuance of Cambridge Street Collingwood;
 - (d) the oral submissions made by submitters at this meeting in relation to the proposed partial discontinuance of Cambridge Street Collingwood.
2. That in accordance with Chapter Two, Rule 10 of the Yarra City Council Governance Rules, Council schedule an Extraordinary Council Meeting for 6.00pm on Tuesday 22 November 2022 to further consider the proposed discontinuance of parts of Otter Street and Cambridge Street Collingwood.

Attachments

- 1 Public Notice - Otter Street
- 2 Submissions - Otter Street
- 3 Public Notice - Cambridge Street
- 4 Submissions - Cambridge Street

8.3 PPE22/0228 - Development Facilitation Program Referral - 31 - 35 Victoria Parade Fitzroy (also 41 Victoria Parade, Fitzroy) - St Vincent's Hospital site

Executive Summary

Purpose

This report provides Council with an assessment of a planning application to be considered by the Department of Environment, Land, Water and Planning (the 'DELWP') for a planning permit to develop No. 31 – 35 Victoria Parade, Fitzroy forming part of the St Vincent's Hospital Site. The approval is sought as a priority project under DELWP's Development Facilitation Program (DFP). This is because the project has been deemed shovel ready and the proposed uses comprises a priority sector, described by the DFP as 'medical technology'.

The application seeks approval for the construction of a twelve-storey building comprising office (including medical centre) research centre, education centre and retail premises.

The DELWP is seeking Council's comments in relation to this application.

Key Issues

The key issues for Council in considering the proposal relate to compliance with key policies within the Yarra Planning Scheme.

Financial Implications

None

Recommendation

Summary of recommendations

(see full officer recommendations at the end of this report).

1. That Council write to the Department of Environment, Land, Water and Planning making recommendations for conditions that can be included on any planning permit and outline its heritage concerns relating to impact on Brenan Hall.
2. That Council continue to advocate for the preparation of a Master Plan for the overall St Vincent's Hospital Site in accordance with Clause 21.08-7 (Neighbourhoods – Fitzroy) of the Yarra Planning Scheme.

35 Victoria Parade Fitzroy (also 41 Victoria Parade, Fitzroy) - St Vincent's Hospital site

Reference	D22/272180
Author	John Theodosakis - Principal Planner
Authoriser	Director Planning and Place Making

Background

Relevant Planning History

1. Planning permit No. PLN20/0567 was issued 16 November 2021 for the *Demolition of the Aikenhead building and partial demolition of the Daly Wing and Brennan Hall buildings at the St Vincent's Hospital complex to allow for the construction of a multi-level building (plus roof plant and basement) known as the Aikenhead Centre for Medical Discovery (ACMD) and use of the land for the purpose of a research and development centre, an education centre, and a food and drink premises (cafe) and a full reduction in the car parking requirement of the Yarra Planning Scheme.* The planning permit was issued at the direction of the Governor in Council. This occurred following the Minister for Planning's direction to the Victorian Civil and Administrative Tribunal to refer this to the Governor in Council for determination on 6 June 2021.
2. Planning Permit No. PLN20/0567 is relevant to Council's deliberation of the current application before DELWP as this permits the partial demolition of the Brennan Hall (also forming part of the subject site), and redevelopment of the western adjoining site as shown at Figure 1 below:

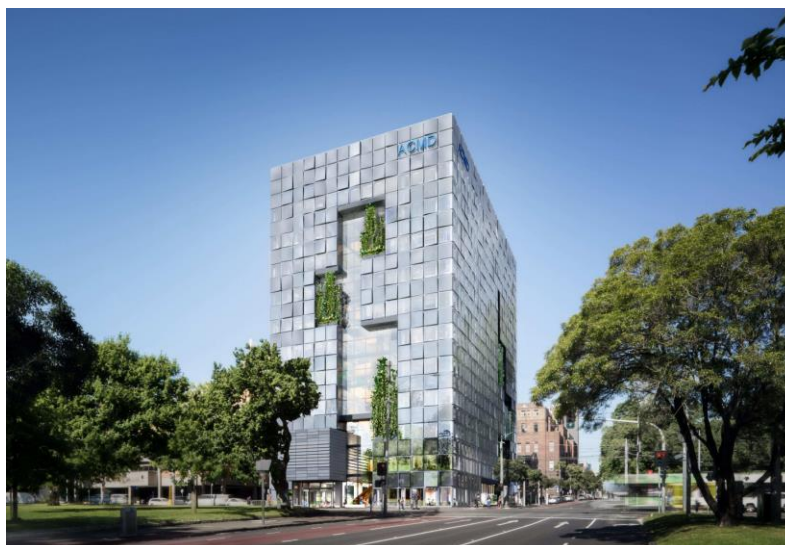


Figure 1 – Render of replacement building endorsed under Planning Permit PLN20/0567 at the Nicholson Street and Victoria Parade intersection, west of the Brennan Hall.

The Proposal

3. The application is for the clearance and excavation of the site courtyard of the former Druid's site to allow for the construction of a twelve storey building (plus roof plant and basement) and use of the land for the purpose of a research and development centre, office and education centre, with a food and drink premises (cafe) at the ground floor and a full reduction in the car parking requirement(s) of the Yarra Planning Scheme.

- The new built form will connect with the recently approved ACMD building at the Nicholson Street and Victoria Parade intersection (i.e. Planning permit PLN20/0567) and will appear as an extension to this building as shown at Figure 2 below:

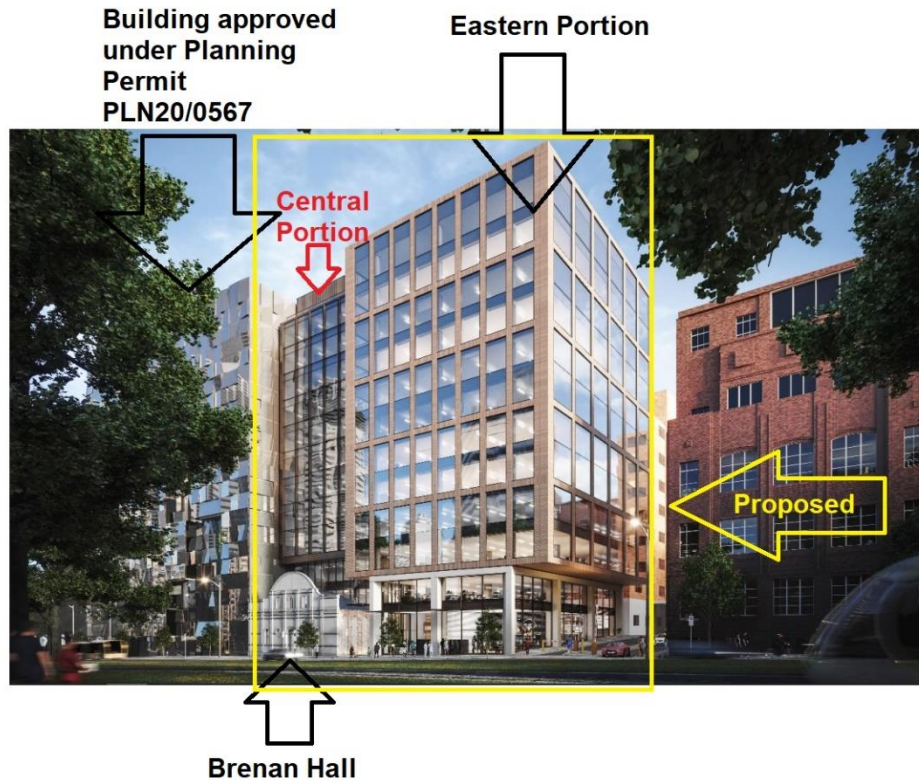


Figure 2 – Proposed Victoria Parade elevation / render showing the building at the approved building at the Nicholson Street and Victoria Parade intersection.

- Planning Permit No. PLN20/0567 requires a minimum 7m depth of the Brenan Hall to be retained as shown at Figure 3:

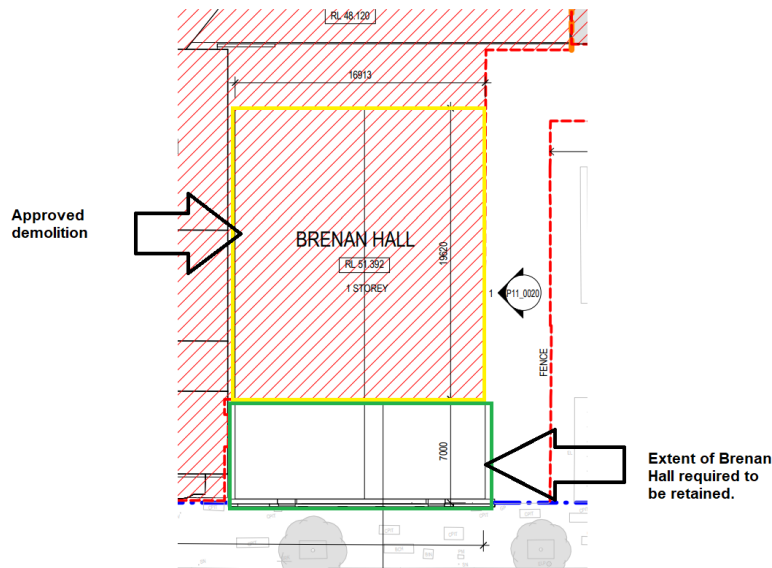


Figure 3 –Partial extent of demolition of the Brenan Hall approved under Planning Permit PLN20/0567.

- The new building is proposed in two main volumes (see Figure 1), with the western portion to be located behind the retained portion of the Brenan Hall building and the substantive building to be constructed to the corner of Victoria Parade and Daly Drive.
- As the proposal is to connect through to the currently under construction ACMD building, pedestrian connections are proposed from Victoria Parade and through the ACMD building.

8. Further details of the proposal are as follows:

Demolition / clearance

9. The extent of demolition includes:

- (a) The clearance and excavation of the courtyard area and excavation of the land to the north and east of the retained portion of Brenan Hall; and
- (b) The demolition of an additional section of building on the north, rear side of Brenan Hall to make way for a 'DDA lift'.

Land use

10. The land uses sought as part of the proposal (no hours of operation specified) are (all approximates):

- (a) Food and drink premises (café) – total net floor area 383sq.m.
- (b) Education centre – total net floor area 2000sq.m. with up to 132 students; and
- (c) Office areas (including research and development and medical centre use no hospital beds) – total net floor area 10,368sq.m.

11. The above uses are expected to accommodate a total of 665 full-time-equivalent (FTE) staff.

12. More broadly, the proposed land uses are related a collaboration between St Vincent's Hospital, the Australian Catholic University and medical research institutes, albeit 6,400sqm of the proposed development is not associated with any specific 'end user' and only identified as office.

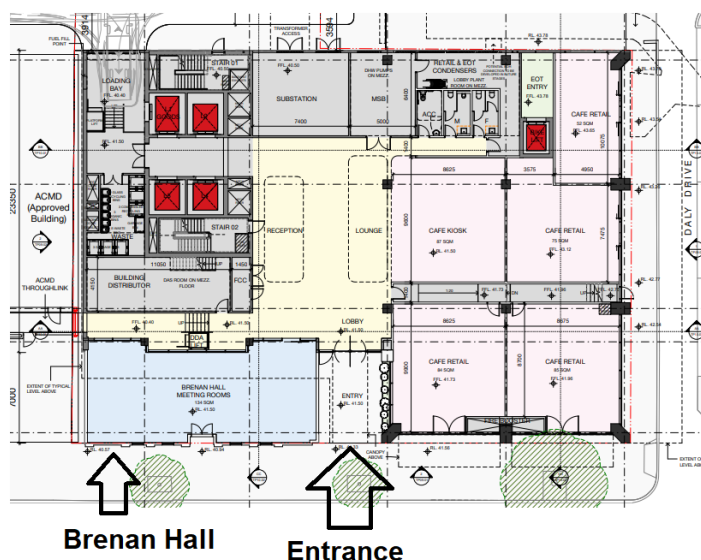


Figure 4 – Proposed Ground Floor Plan.

Buildings and Works

13. Restoration works to the Brenan Hall that will include stripping the acrylic paint coating, which will be undertaken in a manner that will not damage the substrate. The façade will then be restored to a colour scheme representative of the buildings 19th century appearance.



Figure 5 – Render showing the Brenan Hall with restoration works proposed

14. Construction of a 12-storey building plus an enclosed plant level above and a basement level below.
15. The building rises to a maximum height of approximately 52.4m measured at the south-east corner of the building.
16. The building extends from the northern part of the retained Brenan Hall and is offset 5.5m to the east to make way for the primary entrance to the building.
17. The building is rectilinear in form and is setback 7m from Victoria Parade for a length of 23m at Levels 1 and 2 before cantilevering 2m into this setback at Levels 3 -11 above the retained portion of Brennan Hall. The remaining portion of the building is proposed to be constructed to the boundary with Victoria Parade and cantilevered 3.98m over Daly Drive.
18. The building occupies a frontage of 46.25m to Victoria Parade (south) and 30.3m to Daly Drive .

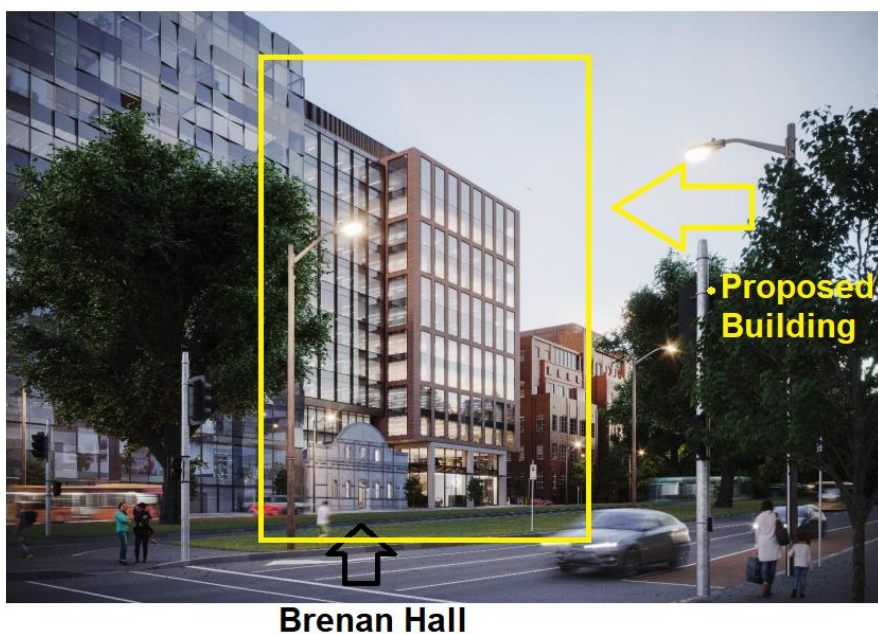


Figure 6 - The Proposal – Architectural render as viewed from Victoria Parade looking north-east

Internal Layout

19. The overall building provides floor to floor heights of up to 6m at the ground floor, minimum 3.75m at the floors above, with service amenities on every floor level (inclusive of lifts and stairs), as detailed within the table below:

Level	Layout – key components
Basement	<ul style="list-style-type: none"> • 54 Bicycle spaces and associated amenities (showers, toilets and lockers); • Building services and equipment including rainwater tank and plant rooms.
Ground Floor	<ul style="list-style-type: none"> • Pedestrian entrance to Victoria Parade, with a lobby , reception and lounge; • Five tenancies designated as food and drink premises (café) orientated to both Victoria Parade and Daly Drive; • Use of the Brenan Hall as a meeting room; • Back of house areas including services (such as substation, meters and fire services room), waste storage and loading bay occupy the northern west corner of the building, accessible from the north-abutting private road.
Level 1	<ul style="list-style-type: none"> • 844sq.m. NLA
Level 2	<ul style="list-style-type: none"> • 1026sq.m. NLA
Levels 3 -11	<ul style="list-style-type: none"> • 1063sq.m. NLA
Level 12 (roof plant)	<ul style="list-style-type: none"> • Plant and services (plant room).

20. Minimal information has been provided on the submitted floor plans with regard of the use of individual spaces within the broader land uses. However, it has been indicated that St Vincent’s hospital are intending to occupy approximately 50% of the building and will use approximately 3,000 square metres of this space for office, consultancy suites and research and education. The proposal will enable them to bring their staff and functions back to the main campus as the hospital has several commercial leases off campus. St Vincent’s has sought to approach the uses with as much flexibility as possible in the tenant ecology and mix of uses within the building and have nominated the floor areas above the ground floor for *office / education centre / research*.

External materials, finishes and landscaping

21. The building utilizes a range of materials to produce a grid pattern across all facades. The Victoria Parade façade provides thinner grid elements to the “western” portion behind the Brenan Hall (through the use of an aluminium façade system) and a thicker, more robust façade grid to the eastern portion (through the use of a masonry façade system with expressed ‘brick-like’ elements). The eastern portion will also have a two-storey podium with height and proportions visually related to the proportions of the Brenan Hall façade and clear glass throughout.

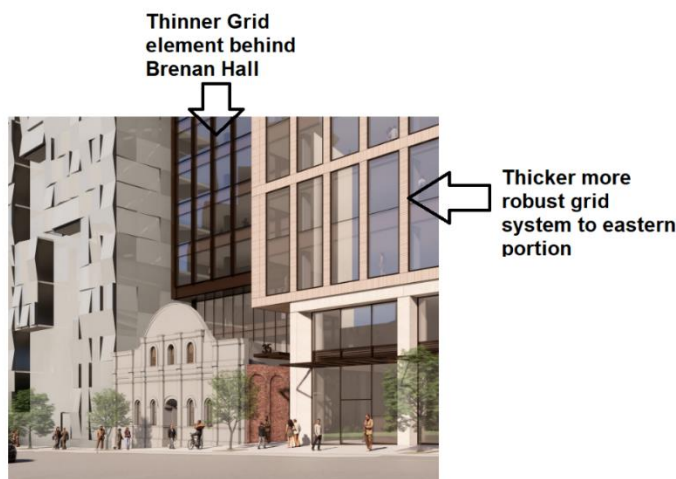


Figure 7 - The Proposal – Architectural render as viewed from Victoria Parade looking north-west identifying difference in grid systems

22. The eastern elevation will continue the robust grid pattern where facing Daly Drive.
23. The street wall podium is sought to be finished in a lightly blasted concrete with the ground plane articulated with bronze aluminium framed windows and bronzed anodised aluminium clad canopies to Victoria Parade (see Figure 7). The development will have muted tones with grey and bronze elements as per Figure 8.

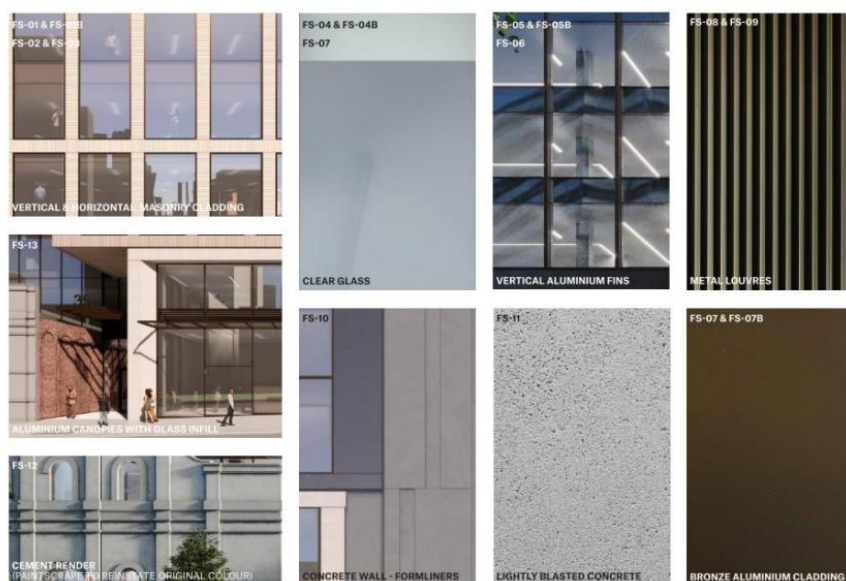


Figure 8 - Proposed façade systems and palette of materials and colours

Car parking, bicycle parking, loading bays and associated access

24. No on-site car parking is provided.
25. Up to 54 bicycles spaces in the basement with associated EOT facilities.
26. Primary access to the bicycle spaces is via the north-adjointing private road via an EOT entrance and bicycle lift.
27. A loading bay is provided at the ground level in the north-west corner of the building, accessed from the north-adjointing private road.

Environmental Sustainable Design (ESD) initiatives

28. A Sustainable Management Plan prepared by Norman Disney Young dated 5 September 2022 accompanies the application and details various ESD features and performance measures, such as:

- (a) 5 Star Green Star certification;
- (b) 5.5 Star NABERS Energy rating;
- (c) Good daylight levels to office areas;
- (d) A 20% improvement on NCC minimum energy efficiency requirements;
- (e) A net-zero carbon operation with no gas proposed and 100% renewable electricity procured;
- (f) High efficiency electric heating/cooling plant with heat recovery;
- (g) Energy efficient lighting;
- (h) Water efficient fixtures and fittings; and
- (i) Separate waste streams for comingled recycling, glass, green waste, garbage, toner/printers/hard waste and electronic waste.

Existing Conditions

Subject Site

29. The subject site is located to the north of Victoria Parade, approximately 50m from the Victoria Parade and Nicholson Street, intersection in Fitzroy. The subject site is defined by land associated with the Brenan Hall (now partially demolished in accordance with Planning Permit PLN20/0567) and a courtyard that was occupied by the former Druid's Building. The site has a frontage to Victoria Parade of 46.2m, a depth of 30m and an overall site area of approximately 1,383sq.m. The land has a gentle downward slope to the west and south.



Figure 9 – Subject Site (extracted from permit applicant's Town Planning report at p.4)

30. Formally, the land directly affected by the proposal is identified as Lot 1 on Title Plan TP 681051S associated with Volume No. 11144 and Folio No. 450.

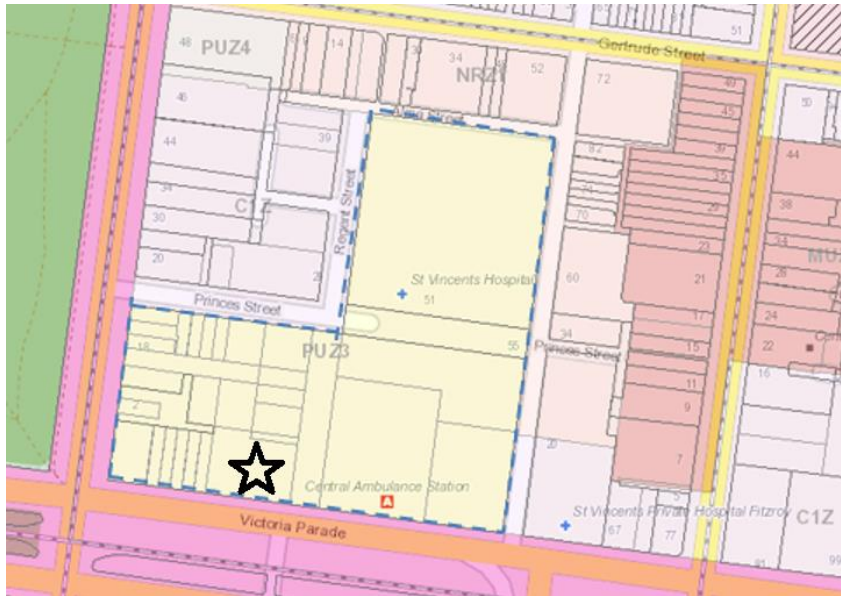


Figure 10 – St Vincent's Public Hospital Complex core buildings (dashed blue line) within PUZ3 (extracted from VicPlan)

31. The St. Vincent's Public Hospital Complex comprises an assortment of buildings of various scales and dates of construction and associated open areas. Figures 10 and 11, above and below, respectively, show the complex and the general location of the site within this context. The landscaped courtyard fronting Victoria Parade that was the former Druid's building site (previously demolished), located east of the Brennan Hall and descriptions of these are provided within the following paragraphs.

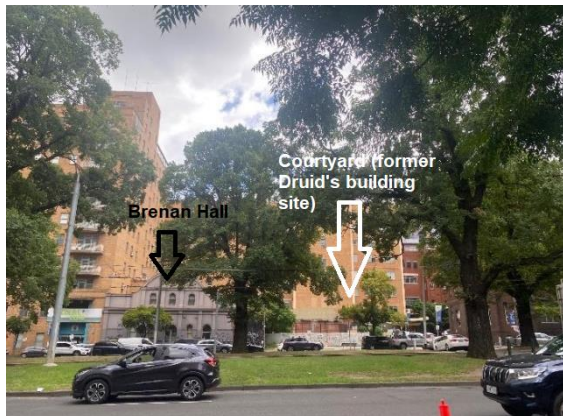


Figure 11 – Photo showing Brennan Hall and courtyard looking north from the southern side of Victoria Parade (extracted from permit applicant's Town Planning report at p.4 but modified to include notations)

Brennan Hall



Figure 12 – Brennan Hall viewed from Victoria Parade (Source: Planning Officer photo, May 2021).

32. The Brennan Hall was constructed circa 1890-1910. It is constructed to Victoria Parade for a length of approximately 17m. At the time of the photo taken at Figure 12, the building had a depth of approximately 27m (including parts of the building which appeared to be later additions). At present, the building has been partially demolished to make way for the development approved under planning permit PLN20/0567 that also includes the full demolition of the Aikenhead building to the west. Figure 13 below identifies the extent of demolition approved under planning permit PLN20/0567 to make way for the render shown at Figure 14 which identifies the building approved to replace the Aikenhead building at the corner of Nicholson Street and Victoria Parade (to the immediate west of the Brennan Hall).

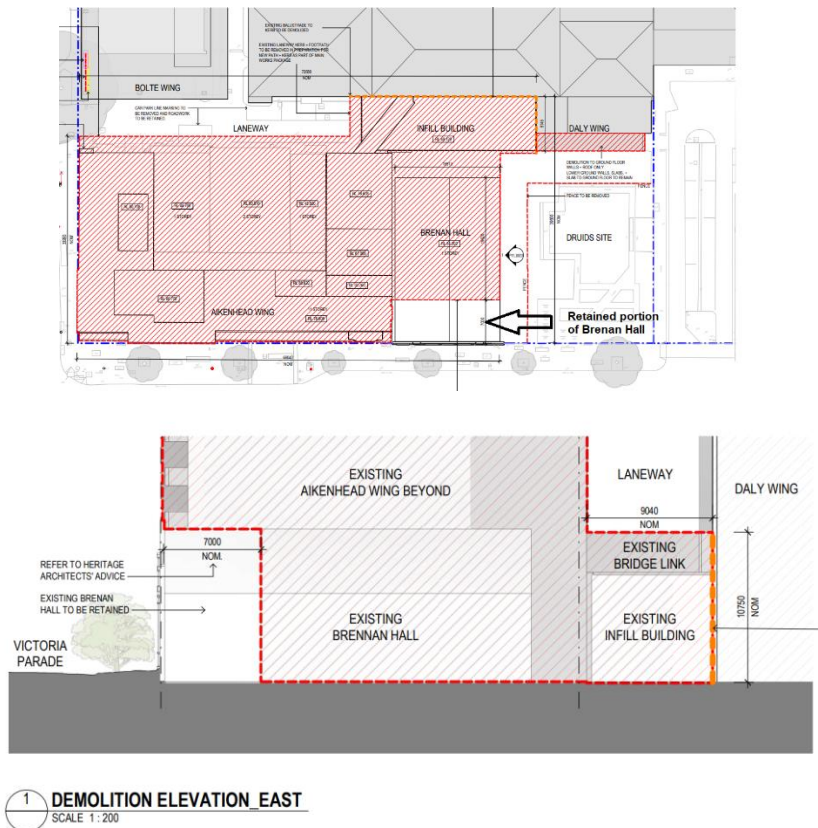


Figure 13 – Site plan and east elevation showing the demolition of the Aikenhead building and partial extent of demolition of the Brennan Hall approved under Planning Permit PLN20/0567.

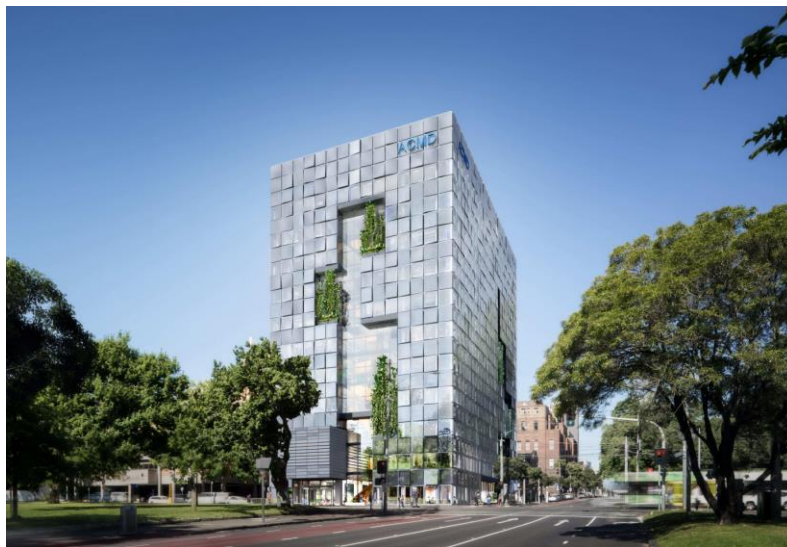


Figure 14 – Render of replacement building endorsed under Planning Permit PLN20/0567 at the Nicholson Street and Victoria Parade intersection, west of the Brennan Hall.

33. The “Druid’s site” courtyard forms part of the subject site and this is located to the immediate east of the Brenan Hall. This site was formerly the Druid’s building which was removed and landscaped under planning permit PLN12/1105. The former Druid’s building on the site was graded as “contributory” to the South Fitzroy Heritage Precinct. Other buildings that form part of the cluster of buildings associated with the St Vincent’s Hospital Site are:
- (a) The Healy Building - east of the Druid’s site courtyard and separated by a private road. A prominent, five-storey face brick building which includes part of the original St Vincent’s wing (circa 1905) and other portions constructed circa 1928-1934. It is graded as “individually significant” to the South Fitzroy Heritage Precinct (listed in Council’s Heritage Database as 41 Victoria Parade);
 - (b) The Medical Centre – east of the Healy Building, on the south-west corner of Victoria Parade and Fitzroy Street. A seven storey concrete building, constructed circa 1970-1980, which is graded as “not contributory” to the South Fitzroy Heritage Precinct (listed in Council’s Heritage Database as 55 Victoria Parade);
 - (c) The Bolte Wing building– a three storey, part concrete and part masonry building constructed circa 1990-2000 which extends northward to Princes Street. The building has undercroft car parking along the northern private road abuttal and has a projecting concrete canopy extending over part of Nicholson Street. The building is graded as “not contributory” to the South Fitzroy Heritage Precinct (listed in Council’s Heritage Database as 2-10 Princes Street); and
 - (d) The Main Hospital Building (also commonly referred to as the “in-patient services building”). Located on the northerly extent of the public use zoned land and bounded by Alma Street to the north, Regent Street to the west, Fitzroy Street to the east and adjoining the open central courtyard / parking area of the hospital complex to the south. The building is 11 storeys high, with a two storey podium and the remaining levels setback from the streets. The building is predominated constructed of render, metal cladding and glass and was constructed circa 1970-1980. The building is also referred to as 51-77 Fitzroy Street. No heritage grading is assigned to the building (unlisted in Council’s Heritage Database). The building contains the hospital’s emergency department and includes several storeys of car parking.

World Heritage Environs Area (WHEA)

34. The subject site is located within the WHEA buffer zone (related to the Royal Exhibition Building (REB) and Carlton Gardens (CG) located opposite to the west) as set out in the World Heritage Environs Area Strategy Plan (see Figure 9) with Nicholson Street (to the west) and part of Victoria Parade (to the south) within the designated area of lesser sensitivity (cyan-green). This is currently under review and the designated area of lesser sensitivity may in the future, be removed.

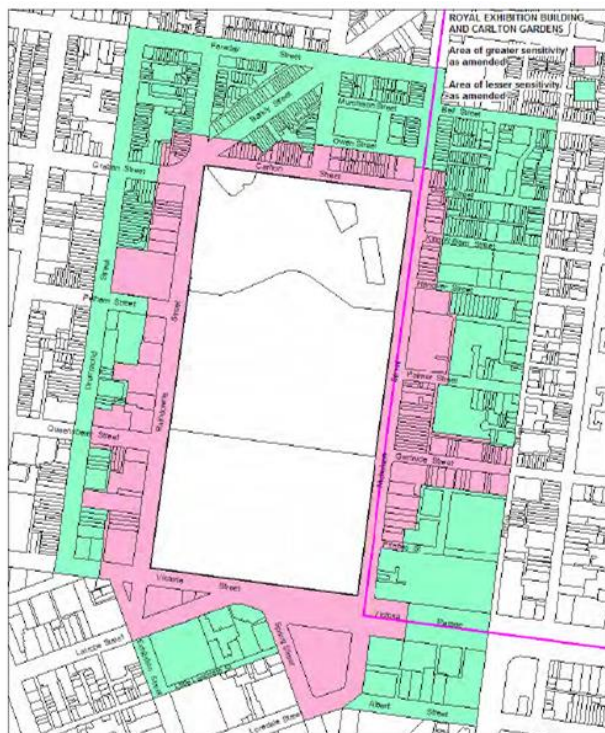


Figure 15 – Map 3 of the World Heritage Environs Area Strategy.

35. Council’s property and ratings database generally recognises all properties associated with St Vincent’s Public Hospital under the single address of No. 41 Victoria Parade, Fitzroy. However, historically (and still commonly) the Brennan Hall has been identified as No. 31 Victoria Parade, and the Daly Wing as No. 35 Victoria Parade. Various other buildings associated with the complex have been historically addressed to the relevant street frontages and are also commonly identified in this way. It is highlighted that all adjoining lot to the subject areas proposed to be developed, are in common ownership.

Surrounding Land

36. The subject site is located at the south-west border of the City of Yarra municipality, with land to the west (across Nicholson Street) and to the south (across Victoria Parade) located within the City of Melbourne. The subject site is located approximately 160m from the Melbourne CBD (to the south-west) with a similar distance to the Parliamentary Precinct. It is also located within the WHEA buffer zone as indicated earlier, within an area identified as a medical and education precinct with Victoria Parade and the surrounding areas to the north and south (Fitzroy and East Melbourne) hosting several hospitals and associated health and medical facilities.
37. The surrounding area includes the St Vincent’s Private Hospital (described below), the St Vincent’s Research Unit, the ACU, Eye and Ear Hospital, Epworth/Freemasons as well as numerous consulting and specialist medical services located in buildings along Victoria Parade as well as Albert Street to the south. The Australian Catholic University campus Fitzroy is a large tertiary education campus located further east along Victoria Parade (approximately 210m east of the larger Public Hospital site). The wider area has a patchwork of planning zones (see Figure 16).

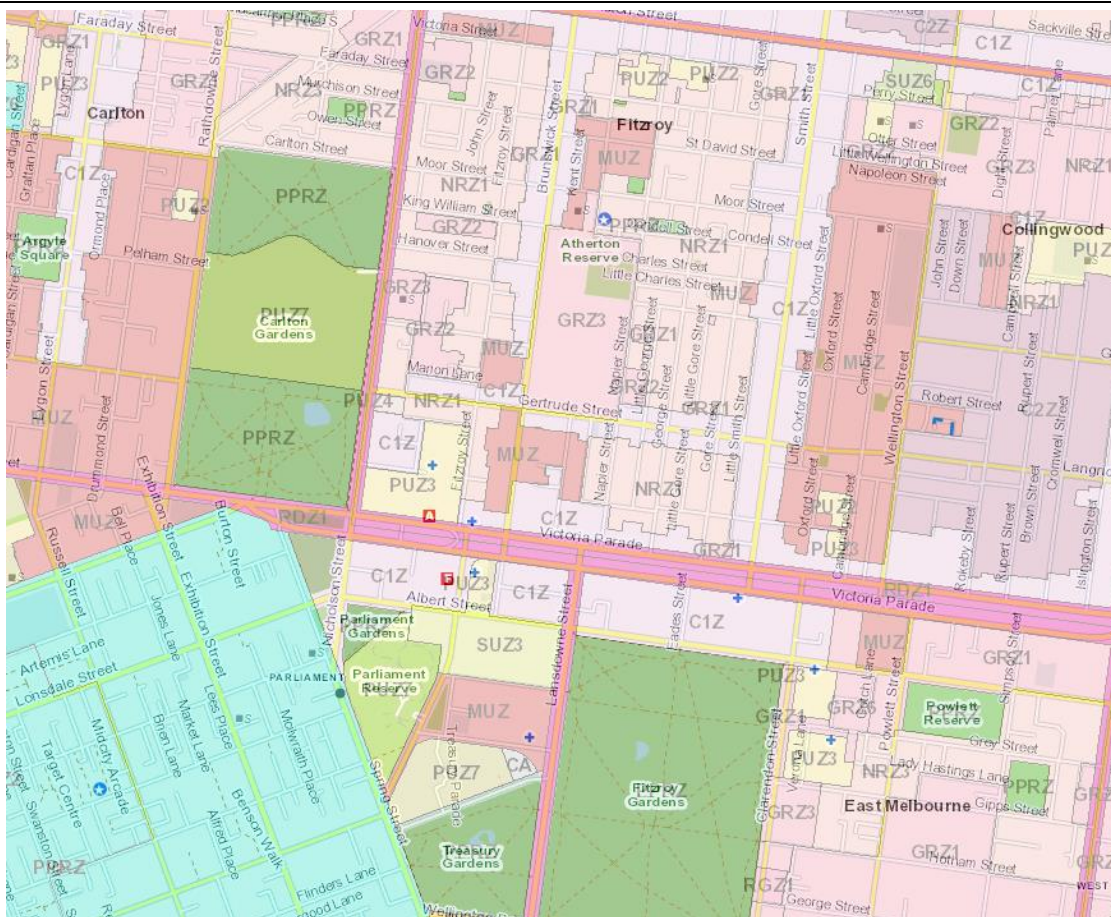


Figure 16 – Subject Site and surrounding land.

38. The site has excellent access to pedestrian and bicycle infrastructure (i.e. on-road bicycle lanes) including a shared (bicycle/pedestrian) path located on the west side of Nicholson Street and on-road bicycle lanes in the wider area including Brunswick Street and Gisborne Street (East Melbourne).

39. In more detail, the following provides a description of the surrounding broader area (the description excludes buildings within the St Vincent’s Public Hospital Complex which were already described in the “Subject Site” section).

North (fronting Nicholson Street)

40. To the north of the subject site, fronting Nicholson Street, are properties within the Commercial 1 Zone, some of which are also associated with St Vincent’s Hospital. Built form along the eastern side of Nicholson Street, up to Gertrude Street, are typically between two and three storeys and predominantly of masonry construction. Buildings derive from a range of architectural periods and include several grand Victorian-era terrace buildings graded as “individually significant” to the South Fitzroy Heritage Precinct with one of these - Osborne House (located at No. 40-44 Nicholson Street) also listed on the Victorian Heritage Register. On the southern corner of Gertrude Street and Nicholson Street is the Victorian-era former Cable Tram Engine House, which is also listed on the Victorian Heritage Register (located within the Public Use Zone 4 – Transport).

41. Continuing further north (beyond Gertrude Street) is land zoned residential and predominantly developed with relatively intact “individually significant” graded (and some heritage listed) two to three-storey, Victorian-era terrace residential buildings. It also includes significant institutional buildings such as the Convent of Mercy Complex (listed on the Victorian Heritage Register) which is now occupied by the Academy of Mary Immaculate secondary college. Royal Terrace (No. 50 – 68 Nicholson Street), located on the northern corner of Gertrude Street and Nicholson Street, is also a double-storey Victorian-era terrace building listed on the Victorian Heritage Register.

42. The wider area to the north and north-east contains the Gertrude Street neighbourhood Activity Centre (NAC), which extends eastward to meet the Brunswick Street Major Activity Centre (MAC) located approximately 300m east of Nicholson Street. These activity centres offer a broad range of retail, food and drink, dining, pubs and bars and services. The built form character is generally Victorian shop fronts, one to three levels, with some taller examples as well as public housing towers up to 21 storeys.

North (Gertrude Street through to Brunswick Street)

43. Properties along the northern side of Gertrude Street between Nicholson Street and Brunswick Street are generally zoned Commercial 1 Zone whereas properties on the opposite (southern) side of this section of Gertrude Street are zoned residential. With this in mind, the northern side of Gertrude Street has a greater proportion of commercial properties whereas the southern side is largely dominated by residential and medical related land uses.
44. Properties along the northern side of Gertrude Street (and land within approximately 7m of the Marion Lane) between Nicholson Street and Fitzroy Street and the land occupied by Royal Terrace (No. 50-68 Nicholson Street) are also affected by the Design & Development Overlay (Schedule 8) (DDO8) which sets built form controls designed to protect the World Heritage values of, and views to, the REB and CG by reinforcing the low-rise built form character of the area.

East (north side Victoria Parade)

45. To the east of the public hospital buildings along Victoria Parade (on the south-east corner of Fitzroy Street and Victoria Parade) is St Vincent's Private Hospital (No. 59-61 Victoria Parade) constructed in 1972 which is graded as "individually significant" to the South Fitzroy Precinct Heritage Overlay. A planning permit (PLN16/0925) was issued in 2017 for an extension to the private hospital which extends to the east of the existing building and rises to 11 storeys. This permit affects land at No's. 59-77 Victoria Parade, 5-7 Brunswick Street and 20-32 Fitzroy Street. The building approved under planning permit No. PLN16/0925 measures up to 47.3m in height above the natural ground level, whilst the extension to the associated rear car park will produce a building height of 33.2m on the west side, 32.2m on the east side and a maximum building height of up to 35.4m to the lift core as measured above the natural ground level.
46. Early works in the form of excavations and partial demolition have commenced on this site.



Figure 17 – Endorsed Victoria Parade render of the extension to the existing St Vincent's Private Hospital building approved under Planning Permit PLN16/0925.

47. Further to the east, extending from the eastern corner of Brunswick Street and Victoria Parade are buildings associated with the wider complex of the Australian Catholic University (ACU) as well as a car park building associated with St Vincent's Hospital (No. 93-99 Victoria Parade). The ACU Complex is subject to a Development Plan Overlay and is undergoing a process of significant re-development that includes a 14 storey building (facing Victoria Parade corner with Napier Street).
48. Planning permit PLN19/0238 for a 12 storey building at No. 81 – 89 Victoria Parade and No. 8 – 14 Brunswick Street (north-east corner of the Brunswick Street and Victoria Parade intersection) was issued in accordance with the order of the Victorian Civil and Administrative Tribunal on 20 October 2021 (See Figure 18).



Figure 18 – Perspective of proposed development at No. 81 – 89 Victoria Parade and 8 – 14 Brunswick Street, Fitzroy - decision plans – PLN19/0238

49. Also of note, planning permit No. PLN16/0926 was issued on 11 August 2017 for *use and development of the land for part demolition, alterations and a three storey addition to the existing car park* at 93-99 Victorian Parade Fitzroy (see Figure 19). The development has not commenced and the permit has been extended three times, with the most recent extension allowing for development to commence no later than 11 August 2022. Whilst works are yet to commence, the permit holder still has the ability to extend the life of this planning permit.



Figure 19 - Endorsed Victoria Parade render of approved development under planning permit No. PLN16/0926.

South (southern side Victoria Parade)

50. To the south of the subject site is Victoria Parade. It is an approximately 67m wide boulevard, a designated arterial road and within the Road Zone Category 1. In each direction, the road carries three lanes of traffic plus a dedicated bus lane. Through the centre are east-west tram lines servicing routes and a treed median strip is located to the north and south of the central tram line. The treed median is included in a site specific Heritage Overlay (HO188) within the City of Yarra and graded as individually significant. Parallel parking extends along part of the frontage of the St Vincent's Public Hospital buildings along Victoria Parade.
51. On the southern side of Victoria Parade is land within the City of Melbourne zoned Commercial 1 (East Melbourne). Directly opposite the subject site, on the south-east corner of Victoria Parade and Nicholson Street (No. 8 Nicholson Street) is a building of 18 storeys in with a lower 5-storey podium forming the street wall to the Victoria Parade and Nicholson Street frontages. To the east of this is a four storey red brick building with ornate turrets constructed in 1900 and listed on the Victorian Heritage Register. To the east again is the Victoria Parade Surgery Centre (a private hospital) located within a modern concrete 7 storey building. To the east again, on the corner of Victoria Parade and Gisborne Street is a grand Victorian-era building (Metropolitan Fire Brigades Board Head Station) which houses the Fire Services Museum. The building is also on the Victorian Heritage Register.
52. Further east along the southern side of Victoria Parade are buildings of varying scale and from a range of architectural periods, including Victorian-era terrace buildings and modern multi-storey buildings. A range of land uses are evident including commercial and residential as well as medical related services and facilities.

West

53. To the west of the St Vincent's Hospital site is Nicholson Street. It is an approximately 30m wide boulevard, a designated arterial road and within the Road Zone Category 1. In each direction, the road carries two lanes of traffic and there are central tram lines servicing several linking tram routes to the northern suburbs. On the opposite side of Nicholson Street, are the Carlton Gardens, which host the Royal Exhibition Building (located approximately centrally on the north-south axis of the park) and the Melbourne Museum (to the north of the Royal Exhibition Centre).

54. Further to the west of the Carlton Gardens, on the opposite side of Rathdowne Street are a mixture of commercial and residential buildings from a range of architectural periods (from Victorian era to contemporary) as well as prominent heritage buildings on the Victorian Heritage Register such as the Carlton Gardens Primary School (constructed in 1884) and the Sacred Heart Catholic Church. Buildings on this side of Rathdowne Street, opposite the gardens are predominantly low to mid-rise (between two to five storeys) with the exception of a contemporary mixed use building on the southern corner of Rathdowne and Queensberry Streets which rises to approximately 17 storeys.

Planning Scheme Provisions

Zones

Public Use Zone – Schedule 3

55. The subject site (portion within private land) is zoned Public Use Zone 3 (PUZ3).
56. The purpose of the zone is:
- (a) *To implement the Municipal Planning Strategy and the Planning Policy Framework;*
 - (b) *To recognise public land use for public utility and community services and facilities; and*
 - (c) *To provide for associated uses that are consistent with the intent of the public land reservation or purpose.*
57. Pursuant to Clause 36.01-1 (table of uses):
- (a) The following does not require a planning permit:
 - (i) *A use for the purpose described in the table to Clause 36.01-6 which corresponds to the notation on the planning scheme map. The use must be carried out by or on behalf of the public land manager.*
58. The table at Clause 36.01-6 of the Scheme identifies that for land in PUZ3, a use relating to “Health and Community” does not require a planning permit. Although the use of the upper levels of the building is considered to meet the first condition, as the land is privately owned and there is no public land manager it cannot meet the second. Nonetheless, the land has existing use rights for a hospital pursuant to Clause 63.11 of the Yarra Planning Scheme, having been used and occupied continuously for a period of well over 15 years having formed part of the broader St Vincent’s Hospital campus.
59. A planning permit is required for any use(s) not listed in section 1 of the table, therefore the following land uses require a planning permit:
- (a) Office;
 - (b) Education centre;
 - (c) Food and drink premises (café); and
 - (d) Research and development centre.
- #### *Road Zone Category 1*
60. The subject site includes parts over Nicholson Street and Victoria Parade, zoned Road Zone (Category 1) (RDZ1). The purpose of the zone is:
- (a) *To implement the Municipal Planning Strategy and the Planning Policy Framework. To identify significant existing roads; and*
 - (b) *To identify land which has been acquired for a significant proposed road.*
61. Pursuant to Clause 36.04-2 of the Scheme, a planning permit is required to construct a building or construct or carry out works for a use in Section 2 of the table of uses at Clause 36.04-1 of the Scheme. The proposed buildings and works over Victoria Parade (canopy structures) require a planning permit under this zone.
-

Overlays

Heritage Overlay

62. The subject site is affected by the Heritage Overlay (Schedule 334 – South Fitzroy Precinct & Schedule 361 – World Heritage Environs Area Precinct). See Figure 20 for extent of overlays. Pursuant to Clause 43.01-1 a planning permit is required to:
- (a) *Demolish or remove a building; and*
 - (b) *Construct a building or construct or carry out works.*
63. The incorporated document *City of Yarra Database of Heritage Significant Areas July 2020* has graded the Brenan Hall as ‘Contributory’.

Design & Development Overlay

64. The subject site is affected by the Design & Development Overlay (Schedule 2 – Main Roads and Boulevards – DDO2). The overlay applies to the southern 30m of the St Vincent’s Hospital campus that includes the subject site (see Figure 21). The following provisions apply:
- (a) A planning permit is required pursuant to Clause 43.02-2 of the Scheme for the construction of buildings and works; and
 - (b) The Schedule to the overlay outlines the following design objectives:
 - (i) *To recognise the importance of main roads to the image of the City;*
 - (ii) *To retain existing streetscapes and places of cultural heritage significance and encourage retention of historic buildings and features which contribute to their identity;*
 - (iii) *To reinforce and enhance the distinctive heritage qualities of main roads and boulevards;*
 - (iv) *To recognise and reinforce the pattern of development and the character of the street, including traditional lot width, in building design;*
 - (v) *To encourage high quality contemporary architecture;*
 - (vi) *To encourage urban design that provides for a high level of community safety and comfort;*
 - (vii) *To limit visual clutter; and*
 - (viii) *To maintain and where needed, create, a high level of amenity to adjacent residential uses through the design, height and form of proposed development.*

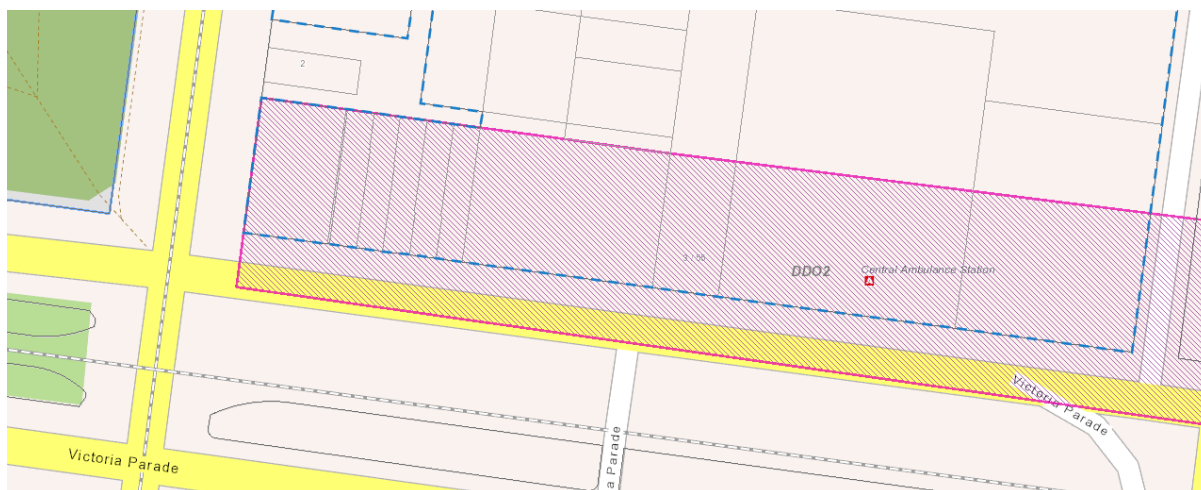


Figure 20 – Extent of DDO2 in relation to the subject site title boundaries.

Development Contributions Overlay

65. The subject site is affected by the Development Contributions Plan Overlay (DCPO) – Schedule 1.
66. Pursuant to Clause 45.06-1 of the Scheme a permit granted in the DCPO must:
- (i) *Be consistent with the provisions of the relevant development contributions plan; and*
 - (ii) *Include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay*
67. Schedule 1 to the DCPO does not include any exemptions for the proposal and therefore the requirements of the DCPO1 are applicable and the relevant contribution must be paid if a permit were to issue.

Relevant Planning Scheme Amendments

Amendment C269

68. Amendment C269 proposes to update the local policies in the Yarra Planning Scheme (the Scheme) by replacing the Municipal Strategic Statement (MSS) at Clause 21 and Local Planning Policies at Clause 22 with a Municipal Strategic Strategy and Local Policies within the Planning Policy Framework (PFF), consistent with the structure recently introduced by the State Government.
69. Amendment C269 was on public exhibition between 20 August 2020 and 4 December 2020 and proceeded to a panel hearing in October 2021.
70. The Panel report was released on 18 January 2022. Council resolved on 19 April 2022 that having considered the Panel report, to submit the adopted Amendment to the Minister for Planning for approval in accordance with section 31(1) of the Act. As such, Amendment C269 is a seriously entertained planning policy and relevant to the consideration of this application.
71. The new clauses are largely reflected in current planning policy, which is generally not contradictory to the proposed re-write of Clauses 21 and 22. However, as this amendment is now a ‘seriously entertained’ planning proposal, a summary and brief assessment of the relevant policies to the proposal is provided in the table below. This assessment confirms that the proposal is consistent with the new policies.

Proposed C269 Local Policy reference	Brief Assessment
Clause 02.01-8 – Economic Development	The St Vincent’s Public and Private Hospitals are identified as major sources of employment, with the education sector in these precincts also growing. The development is therefore consistent with this theme of evolution.
02.03-3 – Environmental Risks and Amenity (Climate Change)	<p>Lead on environmental sustainability and seek to manage the long-term effects of climate change:</p> <p>Create a built environment that mitigates and adapts to climate change by:</p> <ul style="list-style-type: none"> • <i>Directing growth to activity centres, major employment precincts, and employment land that is close to public transport;</i> • <i>Promoting land use and development that support a shift to sustainable modes of transport - walking, cycling and public transport; and</i> • <i>Supporting environmentally sustainable development.</i> <p>The proposed development will appropriately locate a multi-storey development on the St Vincent’s Hospital campus.</p>

Clause 02.04 – Strategic Framework Plan	The Site is formally identified as being located within a Health and Education Precinct.
Clause 13.07-1L – Interfaces and Amenity	The policy aspirations of this clause is addressed under the off-site amenity and on-site amenity within the Assessment section of this report.
Clause 15.01-1L – Urban Design	Built form and design is discussed extensively in the officer assessment.
Clause 15.01-2L – Building Design	Built form and design is discussed extensively in the officer assessment.
Clause 15.02-1L – Environmentally Sustainable Development	ESD is discussed in the officer assessment.
Clause 17.01-1L – Employment	The proposal features cafes, medical, education and research and office spaces that will support employment opportunities within this area.
Clause 18.02-1L – Sustainable Transport	The provision of bicycles and associated facilities and the full reduction in the car parking requirements of the Yarra Planning Scheme will ensure that this policy is met.
Clause 18.02-4L – Car Parking	The proposal seeks a reduction of the car parking requirements to reduce reliance on private vehicle usage.
Clause 19.03-2L – Infrastructure Contributions	Recommendations for changes combined with a suite of conditions will assist the delivery of upgrades across the Victoria Parade interface.
Clause 19.03-3L – WSUD	Implementation is required by condition.
Clause 19.03-5L – Waste	Waste management is discussed in the assessment section below and addressed via a Waste Management Plan that will be implemented by condition.

Particular Provisions

Clause 52.06- Car parking

72. Pursuant to Clause 52.06-2 of the Scheme, before a new use commences, the required car parking spaces must be provided on the land. Where a use is not specified in the table, an adequate number of car spaces must be provided to the satisfaction of the responsible authority.
73. Given the location of the site in the Principal Public Transport Network Area, the Column B rates apply. The table below identifies the car parking requirement under Clause 52.06-5, of the Scheme, the provision on site, and the subsequent reduction below the statutory requirement:

(a) Proposed Use	(b) Quantity/ (c) Size	(d) Statutory Parking Rate*	(e) No. of Spaces Required	(f) No. of Spaces Allocated
(g) Office (including medical centre use)	(h) 10,368sq. m.	(i) 3.0 spaces per 100 m ² (j) of net floor area	(k) 311	(l) 0
(m) Food and Drink	(n) 383sq.m.	(o) 3.5 spaces per 100 m ² (p) of leasable floor area	(q) 13	(r) 0
(s) Education Centre	(t) 132 students	(u) 0.3 spaces to each student that is part of the (v) maximum number of students on the site (w) at any time	(x) 39	(y) 0
(z) Total			(aa) 363 spaces	(bb) 0 spaces

74. Pursuant to Clause 52.06-3 of the Scheme, a planning permit is required to reduce the number of car spaces required under Clause 52.06-5 of the Scheme.

Clause 52.34 - Bicycle facilities

75. Pursuant to Clause 52.34-1 of the Scheme, a new use must not commence until the required bicycle facilities and associated signage are provided on the land. The following table identifies the bicycle facilities required under Clause 52.34-5 of the Scheme, the provision on site, and the subsequent variation from the statutory requirement:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Office (including education centre space and medical centre)	11,437 sqm	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	38 employee spaces	54 spaces total
		1 visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	12 visitor spaces.	
Retail premises (other than specified in this table)	383 sqm	1 employee space to each 300 sqm of leasable floor area	1 employee spaces	
		1 visitor space to each 500 sqm of leasable floor area	1 visitor spaces.	
Bicycle Parking Spaces Total			39 resident / employee spaces	? resident / employee spaces
			13 visitor spaces	? visitor spaces
Showers / Change rooms		1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	4 showers / change rooms	8 showers / change rooms

76. Clause 52.34-2 of the Scheme states that a planning permit may be granted to vary, reduce or waive this requirement.

Clause 53.18 - Stormwater Management In Urban Development

77. The purpose of clause 53.18 of the Scheme is *to ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.*

General Provisions

78. Pursuant to clause 66.02-11, an application to construct a building or construct or carry out works for an education centre and/or any alteration or development of public transport infrastructure or stops, unless undertaken for the Head, Transport for Victoria; must be referred to the Head, Transport for Victoria. Further detail is provided within the referral section of this report.

Clause 63 – Existing Use Rights

79. Clause 63.01 of the Scheme states that an existing use right may be established where proof of continuous use is provided pursuant to Clause 63.11 of the Scheme. Accordingly, the site has a long history as a hospital which continues to this day, constituting well over 15 years of continuous use, and therefore benefits from existing use rights for a hospital.
80. Pursuant to Clause 63.05 of the Scheme, a Section 2 use for which an existing use right is established may continue provided that no buildings and works are constructed without a permit. As such, a planning permit is therefore required for the buildings and works associated with the ongoing use of the hospital.

Clause 65 – Decision guidelines

81. The decision guidelines outlined at Clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider a number of matters, including the relevant Municipal Planning Strategy and the Planning Policy Framework, the purpose of the zone, overlay and any other provision. An assessment of the application against the relevant sections of the Scheme is offered later in this report.

Planning Policy Framework (PPF)

Relevant clauses are as follows:

Clause 11.01-1R – Settlement – Metropolitan Melbourne

82. The relevant strategies of this clause are to:
- (a) *Maintain a permanent urban growth boundary around Melbourne to create a more consolidated, sustainable city and protect the values of non-urban land;*
 - (b) *Focus investment and growth in places of state significance, including:*
 - (i) *Metropolitan Melbourne Central City;*
 - (ii) *National Employment and Innovation Clusters;*
 - (iii) *Metropolitan Activity Centres;*
 - (iv) *State-Significant Industrial Precincts;*
 - (v) *Transport Gateways;*
 - (vi) *Health and Education Precincts;*
 - (vii) *Major Urban-Renewal Precincts;*
 - (c) *Develop a network of activity centres linked by transport; consisting of metropolitan activity centres supported by a network of vibrant major and neighbourhood activity centres of varying size, role and function; and*

- (d) *Create mixed-use neighbourhoods at varying densities, including through the development of urban-renewal precincts that offer more choice in housing, create jobs and opportunities for local businesses and deliver better access to services and facilities.*

Clause 11.02 - Managing Growth

Clause 11.02-1S - Supply of Urban Land

83. The objective this clause is *“to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses”*.

Clause 11.03-1S – Activity Centres

84. The objective of this clause is *“to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community”*.

Clause 11.03-1R – Activity Centres – Metropolitan Melbourne

85. This clause has a strategy to *“support the development and growth of Metropolitan Activity Centres by ensuring they:*

- (a) *Are able to accommodate significant growth for a broad range of land uses;*
- (b) *Are supported with appropriate infrastructure;*
- (c) *Are hubs for public transport services;*
- (d) *Offer good connectivity for a regional catchment; and*
- (e) *Provide high levels of amenity.”*

86. Another relevant strategy is to *locate significant new education, justice, community, administrative and health facilities that attract users from large geographic areas in or on the edge of Metropolitan Activity Centres or Major Activity Centres with good public transport.*

Clause 13.05-1S - Noise abatement

87. The relevant objective of this clause is *“to assist the control of noise effects on sensitive land uses”*. Noise abatement issues are measured against relevant State Environmental Protection Policy (SEPP) and other Environmental Protection Authority (EPA) regulations.

Clause 13.07 - Amenity and Safety

Clause 13.07-1S - Land use compatibility

88. The objective of this clause is *“to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.”*

Clause 15.01 - Built Environment and Heritage

Clause 15.01-1S - Urban design

89. The relevant objective of this clause is *“to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.”*

90. Relevant strategies are:

- (a) *Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate;*
 - (b) *Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness;*
 - (c) *Ensure the interface between the private and public realm protects and enhances personal safety;*
 - (d) *Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport;*
-

- (e) *Ensure that the design and location of publicly accessible private spaces, including car parking areas, forecourts and walkways, is of a high standard, creates a safe environment for users and enables easy and efficient use;*
- (f) *Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm;*
- (g) *Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads; and*
- (h) *Promote good urban design along and abutting transport corridors.*

Clause 15.01-1R - Urban design - Metropolitan Melbourne

91. The objective of this clause is *“to create distinctive and liveable city with quality design and amenity”*.
92. Relevant strategies include:
- (a) *Support the creation of well-designed places that are memorable, distinctive and liveable;*
 - (b) *Strengthen Melbourne’s network of boulevards; and*
 - (c) *Provide spaces and facilities that encourage and support the growth and development of Melbourne’s cultural precincts and creative industries.*

Clause 15.01-2S - Building design

93. The relevant objective of this clause is *“to achieve building design outcomes that contribute positively to the local context and enhance the public realm”*.
94. Relevant strategies of this clause are:
- (a) *Ensure a comprehensive site analysis as the starting point of the design process and provides the basis for the consideration of height, scale and massing of new development;*
 - (b) *Ensure development responds and contributes to the strategic and cultural context of its location;*
 - (c) *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment;*
 - (d) *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm;*
 - (e) *Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security;*
 - (f) *Ensure development is designed to protect and enhance valued landmarks, views and vistas;*
 - (g) *Ensure development provides safe access and egress for pedestrians, cyclists and vehicles; and*
 - (h) *Ensure development provides landscaping that responds to its site context, enhances the built form and creates safe and attractive spaces.*

95. This clause also states that planning must consider (as relevant), the *Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017)*.

Clause 15.01-4S - Healthy neighbourhoods

96. The objective of this clause is *“to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity”*.

Clause 15.01-4R - Healthy neighbourhoods - Metropolitan Melbourne

97. The strategy is to “Create a city of 20 minute neighbourhoods that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home”.

Clause 15.01-5S - Neighbourhood character

98. The relevant objective of this clause is “to recognise, support and protect neighbourhood character, cultural identity, and sense of place”.

99. Relevant strategies are;

- (a) *Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character; and*
- (b) *Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:*
 - (i) *Pattern of local urban structure and subdivision;*
 - (ii) *Underlying natural landscape character and significant vegetation; and*
 - (iii) *Neighbourhood character values and built form that reflect community identity.*

Clause 15.02 - Sustainable Development

Clause 15.02-1S - Energy and Resource Efficiency

100. The objective of this clause is “to encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions”.

101. Relevant strategies are:

- (a) *Improve the energy, water and waste performance of buildings and subdivisions through environmentally sustainable development;*
- (b) *Promote consolidation of urban development and integration of land use and transport;*
- (c) *Improve efficiency in energy use through greater use of renewable energy technologies and other energy efficiency upgrades;*
- (d) *Support low energy forms of transport such as walking and cycling;*
- (e) *Reduce the urban heat island effect by greening urban areas, buildings, transport corridors and open spaces with vegetation; and*
- (f) *Encourage retention of existing vegetation and planting of new vegetation as part of development and subdivision proposals.*

Clause 15.03 Heritage

Clause 15.03-1S – Heritage conservation

102. The objective of this clause is “to ensure the conservation of places of heritage significance”.

103. Strategies include:

- (a) *Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme;*
- (b) *Provide for the protection of natural heritage sites and man-made resources;*
- (c) *Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance;*
- (d) *Encourage appropriate development that respects places with identified heritage values;*
- (e) *Retain those elements that contribute to the importance of the heritage place;*

- (f) *Encourage the conservation and restoration of contributory elements of a heritage place;*
- (g) *Ensure an appropriate setting and context for heritage places is maintained or enhanced; and*
- (h) *Support adaptive reuse of heritage buildings where their use has become redundant.*

104. This policy guidelines of this clause includes consideration (as relevant) of:

- (a) *The findings and recommendations of the Victorian Heritage Council; and*
- (b) *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013.*

Clause 17.01 – Employment

Clause 17.01-1S – Diversified economy

105. The objective of this clause is “*to strengthen and diversify the economy*”.

106. The relevant strategies of this clause are:

- (a) *Protect and strengthen existing and planned employment areas and plan for new employment areas;*
- (b) *Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region; and*
- (c) *Improve access to jobs closer to where people live.*

Clause 17.01-S - Diversified economy

107. The objective of this clause is “*to strengthen and diversify the economy*”.

108. Strategies include:

- (a) *Protect and strengthen existing and planned employment areas and plan for new employment areas;*
- (b) *Facilitate regional, cross-border and inter-regional relationships to harness emerging economic opportunities;*
- (c) *Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region;*
- (d) *Improve access to jobs closer to where people live; and*
- (e) *Support rural economies to grow and diversify.*

Clause 17.01-2S - Innovation and research

109. The objective of this clause is “*to create opportunities for innovation and the knowledge economy within existing and emerging industries, research and education*”.

110. The strategies to achieve the objective are:

- (a) *Encourage the expansion and development of logistics and communications infrastructure;*
- (b) *Support the development of business clusters;*
- (c) *Support the development of enterprise precincts that build the critical mass of employment in an area, leverage the area’s public and private sector economic competitive strengths and assets, and cater to a diversity of employment types and scales;*
- (d) *Promote an accessible, well-connected, high-amenity and collaborative physical environment that is conducive to innovation and to creative activities;*

- (e) *Encourage the provision of infrastructure that helps people to be innovative and creative, learn new skills and start new businesses in locations identified to accommodate employment and economic growth;*
- (f) *Support well-located, appropriate and low-cost premises for not-for-profit or start-up enterprises; and*
- (g) *Improve access to community-based information and training through further developing libraries as community learning centres.*

Clause 17.02 – Commercial

Clause 17.02-1S – Business

111. The objective of this clause is *“to encourage development that meets the communities’ needs for retail, entertainment, office and other commercial services”*.

112. The relevant strategies are to:

- (a) *Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure; and*
- (b) *Locate commercial facilities in existing or planned activity centres.*

Clause 17.03 – 2S – Sustainable Industry

113. The objective of this clause is *“to facilitate the sustainable operation of industry”*.

Clause 18 – Transport

114. This clause states that: *Planning should ensure an integrated and sustainable transport system that provides access to social and economic opportunities, facilitates economic prosperity, contributes to environmental sustainability, coordinates reliable movements of people and goods, and is safe.*

Clause 18.01 – Integrated transport

Clause 18.01-2S – Transport System

115. The objective of this clause is *“to coordinate development of all transport modes to provide a comprehensive transport system”*. The relevant strategies of this clause are:

- (a) *Plan or regulate new uses or development of land near an existing or proposed transport route to avoid detriment to and where possible enhance, the service, safety and amenity desirable for that transport route in the short and long terms;*
- (b) *Ensure that pedestrian and cyclist access to public transport is facilitated and safeguarded; and*
- (c) *Consider all modes of travel, including walking, cycling, public transport, taxis and private vehicles (passenger and freight) in providing for access to new developments.*

Clause 18.01 – Land Use and Transport

Clause 18.02 – Movement Networks

Clause 18.02-1S – Walking

116. The objective is *“to facilitate an efficient and safe walking network and increase the proportion of trips made by walking.”*

Clause 18.02-2S – Cycling

117. The objective is *“to facilitate an efficient and safe bicycle network and increase the proportion of trips made by cycling.”*

Clause 18.02-3S – Public Transport

118. The objective is “to facilitate an efficient and safe public transport network and increase the proportion of trips made by public transport.”

Clause 18.02-3R – Principal Public Transport Network

119. Strategies include:

- (a) *Maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect;*
- (b) *Identify and plan for new Principal Public Transport Network routes; and*
- (c) *Support the Principal Public Transport Network with a comprehensive network of local public transport.*

Clause 18.02-4S – Roads

120. The objective is “To facilitate an efficient and safe road network that integrates all movement networks and makes best use of existing infrastructure.”

121. It is a strategy to allocate land for car parking considering:

- (a) *The existing and potential modes of access including public transport;*
- (b) *The demand for off-street car parking;*
- (c) *Road capacity; and*
- (d) *The potential for demand-management of car parking.*

Clause 19.02 – Community Infrastructure

Clause 19.02-1S - Health facilities

122. The objective of this clause is “to assist the integration of health facilities with local and regional communities”.

123. The strategies are to:

- (a) *Facilitate the location of health and health-related facilities (including acute health, aged care, disability services and community care facilities) taking into account demographic trends, the existing and future demand requirements and the integration of services into communities;*
- (b) *Plan public and private developments together, where possible, including some degree of flexibility in use;*
- (c) *Locate hospitals and other large health facilities in designated health precincts and areas highly accessible to public and private transport; and*
- (d) *Provide adequate car parking for staff and visitors of health facilities.*

Clause 19.02-1R – Health precincts – Metropolitan Melbourne

124. The strategies are to:

- (a) *Facilitate health and community wellbeing precincts through the co-location of:*
 - (i) *Hospitals, allied health services and not-for-profit health providers at the regional level;*
 - (ii) *General practitioners, community health facilities, allied health services and not-for-profit health providers at the neighbourhood level;*
- (b) *Create health precincts in new suburbs in or close to town centres; and*
- (c) *Ensure health precincts are well serviced by community services.*

Clause 19.02-2S – Education Facilities

125. The objective of this clause is “*to assist the integration of education and early childhood facilities with local and regional communities*”.

126. Relevant strategies for meeting the objective are:

- (a) *Consider demographic trends, existing and future demand requirements and the integration of facilities into communities in planning for the location of education and early childhood facilities;*
- (b) *Locate secondary school and tertiary education facilities in designated education precincts and areas that are highly accessible to public transport;*
- (c) *Locate tertiary education facilities within or adjacent to activity centres;*
- (d) *Ensure streets and accessways adjoining education and early childhood facilities are designed to encourage safe bicycle and pedestrian access; and*
- (e) *Consider the existing and future transport network and transport connectivity.*

Clause 19.02-2R – Education precincts – Metropolitan Melbourne

127. The strategy of this clause is to “*ensure education precincts are well serviced by community services*”.

Clause 19.03-1S - Development and infrastructure contributions plans

128. The objective of this clause is “*to facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans and infrastructure contributions plans*”.

129. The relevant strategy is to “*Collect development contributions on the basis of approved development and infrastructure contributions plans*”.

Clause 19.03-3S - Integrated water management

130. The objective of this clause is “*to sustainably manage water supply, water resources, wastewater, drainage and stormwater through an integrated water management approach.*”

Local Planning Policy Framework (LPPF)

Municipal Strategic Statement (MSS)

131. Relevant clauses are as follows:

Clause 21.02 – Municipal Profile

132. Council’s Municipal Profile acknowledges amongst its key features: Major hospital and associated *specialist medical services* and *Community services of regional significance including TAFEs, the University of the Third Age, the Australian Catholic University, Epworth and St Vincent’s hospitals.*

133. Particularly relevant excerpts of Council’s Municipal profile are as follows in relation to commerce, industry and heritage:

- (a) Commerce: *The expansion of the tertiary sector and its location in the inner Melbourne region close to the CBD has already resulted in Yarra being an increasing focus for finance, property and business services, cultural/recreational tourism, and wholesale and distribution activities. Yarra has also become a preferred location for many smaller and medium sized businesses, particularly those in computer technology, marketing and design. This trend is expected to continue;*
- (b) Industry: *Corresponding to the increase in professional employment, the traditional heavy industrial activity of the past is being replaced by modern enterprises involved in assembly, warehousing and distribution and research and application of technology. Industry has moved away from the traditional textile, clothing and footwear to printing, publishing, recorded media, and business services and office activities; and*
- (c) Heritage: *In the years after European settlement, Fitzroy became Melbourne’s first suburb and today is an excellent example of the building fabric of the 1850s and 1860s.*

.... The 'World Heritage Environs Area' (WHEA) surrounds the World Heritage listed Royal Exhibition Building and Carlton Gardens, Carlton. The WHEA, which includes land within South Fitzroy, acts as a buffer zone for the World Heritage property and provides a setting and context of significant historic character for the World Heritage property.

Clause 21.03 – Vision

134. The relevant sections of Clause 21.03 are:

- (a) *Yarra will have increased opportunities for employment;*
- (b) *The complex land use mix characteristic of the inner city will provide for a range of activities to meet the needs of the community;*
- (c) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne; and*
- (d) *Most people will walk, cycle and use public transport for the journey to work.*

Clause 21.04-3- Industry, office and commercial

135. The objective of this clause is "to increase the number and diversity of local employment opportunities".

Clause 21.04-4 - Community facilities, hospitals and medical services

136. This clause states Council wishes to retain community services which cater to a range of needs (in particular for disadvantaged groups). Community facilities may be private or not for profit organizations. While large regional facilities such as the Epworth and St Vincent's hospitals are important to the community, their operation and expansion must respond to the local context.

137. The following objectives and strategies are of relevance:

- (a) *Objective 9 - To provide community services that meet the needs of a diverse and changing community;*
- (b) *Objective 10 To provide accessible community services:*
 - (i) *Strategy 10.1 Encourage community facilities and services to co-locate and to locate within or adjacent to activity centres and locations that support multi-purpose trips and shared parking arrangements for people of all abilities;*
 - (ii) *Strategy 10.2 Encourage community facilities to locate where they are easily accessible by public transport; and*
- (c) *Objective 11 To limit the impact of regional community facilities:*
 - (i) *Strategy 11.1 Require the preparation of master plans for regional community facilities including hospitals*

Clause 21.05-1 – Heritage

138. This clause acknowledges that new development can still proceed whilst paralleling the objective to retain the nineteenth century character of the City. Conservation areas seek to conserve the City's heritage places whilst managing an appropriate level of change.

139. Relevant objectives include:

- (a) *Objective 14 To protect and enhance Yarra's heritage places:*
 - (i) *Strategy 14.1 Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage;*
 - (ii) *Strategy 14.2 Support the restoration of heritage places;*
 - (iii) *Strategy 14.3 Protect the heritage skyline of heritage precincts;*
 - (iv) *Strategy 14.4 Protect the subdivision pattern within heritage places;*

- (v) *Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas;*
- (vi) *Strategy 14.8 Apply the Development Guidelines for Heritage Places policy at clause 22.02; and*
- (vii) *Strategy 14.9 Apply the landmarks and Tall Structures Policy at clause 22.03; and*
- (b) *Objective 15 - To protect the setting and context of the World Heritage Listed Royal Exhibition Building and Carlton Gardens:*
 - (i) *Strategy 15.1 - Manage future development within the World Heritage Environs Area surrounding the World Heritage Listed Royal Exhibition Building and Carlton Gardens; and*
 - (ii) *Strategy 15.2 - Protect views to the Royal Exhibition Building from Gertrude Street and Marion Lane through the application of the Design and Development Overlay.*

Clause 21.05-2 – Urban design

140. The relevant objectives are:

- (a) *Objective 16 – To reinforce the existing urban framework of Yarra;*
- (b) *Objective 17 – To retain Yarra’s identity as a low-rise urban form with pockets of higher development:*
 - (i) *Strategy 17.2 – Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
 - *Significant upper level setbacks*
 - *Architectural design excellence*
 - *Best practice environmental sustainability objectives in design and construction*
 - *High quality restoration and adaptive re-use of heritage buildings*
 - *Positive contribution to the enhancement of the public domain*
 - *Provision of affordable housing.*
- (c) *Objective 18 – To retain, enhance and extend Yarra’s fine grain street pattern; and*
- (d) *Objective 20 – To ensure that new development contributes positively to Yarra’s urban fabric;*
 - (i) *Strategy 20.1 – Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs;*
 - (ii) *Strategy 20.2 – Require development of Strategic Redevelopment Sites to take into account the opportunities for development on adjoining land; and*
 - (iii) *Strategy 20.3 – Reflect the fine grain of the subdivision pattern in building design where this is part of the original character of the area.*

Clause 21.05-3 – Built form character

141. General objectives of this clause are

- (a) *Objective 21 – To enhance the built form character of Yarra’s activity centres; and*

- (b) *Objective 23 – To maintain and strengthen the identified character of each type of identified built form within Yarra.*

Clause 21.05-4 – Public environment

142. The relevant objective and strategies of this clause are:

- (a) *Objective 28 – To provide a public environment that encourages community interaction and activity:*
- (i) *Strategy 28.1 – Encourage universal access to all new public spaces and buildings;*
 - (ii) *Strategy 28.2 – Ensure that buildings have a human scale at street level; and*
 - (iii) *Strategy 28.3 – Require buildings and public spaces to provide a safe and attractive public environment.*

Clause 21.06 – Transport

143. This policy recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives. Relevant objectives and strategies of this Clause are as follows:

- (a) *Objective 30 – To provide safe and convenient pedestrian and bicycle environments:*
- (i) *Strategy 30.2 – Minimise vehicle crossovers on street frontages;*
- (b) *Objective 31 – To facilitate public transport usage;*
- (c) *Objective 32 – To reduce the reliance on the private motor car; and*
- (d) *Objective 33 – To reduce the impact of traffic.*

Clause 21.07-1 – Ecologically sustainable development

144. The relevant objectives and strategies of this clause are:

- (a) *Objective 34 – To promote ecologically sustainable development:*
- (i) *Strategy 34.1 – Encourage new development to incorporate environmentally sustainable design measures in the areas of energy and water efficiency, greenhouse gas emissions, passive solar design, natural ventilation, stormwater reduction and management, solar access, orientation and layout of development, building materials and waste minimisation.*

Clause 21.08-7 – Neighbourhoods (Fitzroy)

145. The neighbourhood character statement for this area at Clause 21.08-7 provides the following key observations about the Fitzroy neighbourhood and Victoria Parade:

- (a) *Fitzroy is a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial/ industrial activities; and*
- (b) *Victoria Parade, an important boulevard with substantial office development and the St Vincent's Hospital precinct, is on the south side of this neighbourhood.*

146. The built form character type identified for the subject site is "Heritage Overlay". The relevant strategy is to "*ensure that development does not adversely affect the significance of the heritage place*".

147. A relevant built form strategy as relevant to the subject site is "*Requiring the preparation of a master plan for St Vincent's Hospital*".

Local Policies

148. Relevant clauses are as follows:

Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay

149. This policy applies to all land within a Heritage Overlay and aims to provide guidance for the protection and enhancement of the City's identified places of cultural and natural heritage significance.

Clause 22.02-5.1 – Removal of part of a Heritage Place or Contributory Elements

150. *Generally encourage the retention of a building in a heritage place, unless ...*

151. *For a contributory building:*

- (a) *that part is not visible from the street frontage (other than a laneway), abutting park or public open space, and the main building form including roof form is maintained; or*
- (b) *the removal of the part would not adversely affect the contribution of the building to the heritage place.*

Clause 22.02-5.3 - Reconstruction and Restoration

152. It is policy to *“Encourage restoration of a heritage place or contributory element if evidence exists to support its accuracy.*

Clause 22.02-5.4 - Painting and Surface Treatments

153. It is policy to (as relevant):

- (a) *Encourage the removal of paint from originally unpainted masonry surfaces;*
- (b) *Discourage the sand blasting of render, masonry or timber surfaces; and the painting of unpainted surfaces; and*
- (c) *Encourage paint colours to be consistent with the period of the heritage place.*

Clause 22.02-5.7 – New Development, Alterations or Additions

154. The relevant policies of Clause 22.02-5.7.1 of the Scheme encourages the design of new development to a heritage place or a contributory element to:

- (a) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape;*
- (b) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place;*
- (c) *Be visually recessive and not dominate the heritage place;*
- (d) *Be distinguishable from the original historic fabric;*
- (e) *Not remove, cover, damage or change original historic fabric;*
- (f) *Not obscure views of principle façades; and*
- (g) *Consider the architectural integrity and context of the heritage place or contributory element.*

Clause 22.02-5.7.2 - Specific Requirements (where there is a conflict or inconsistency between the general and specific requirements, the specific requirements prevail)

Corner Sites and Sites with Dual Frontages

155. It is policy to:

- (a) *Encourage new building and additions on a site with frontages to two streets, being either a corner site or a site with dual street frontages, to respect the built form and character of the heritage place and adjoining or adjacent contributory elements to the heritage place; and*

- (b) *Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection.*

Industrial, Commercial and Retail Heritage Place or Contributory Elements

156. It is policy to encourage new upper-level additions and works to:

- (a) *Respect the scale and form of the existing heritage place or contributory elements to the heritage place by being set back from the lower built form elements. Each higher element should be set further back from lower heritage-built forms; and*
- (b) *Incorporate treatments which make them less apparent.*

Clause 22.03 – Landmarks and Tall Structures

157. This policy applies to all development and the objective is the objective is *to maintain the prominence of Yarra’s valued landmarks and landmark signs.*

158. Accordingly, it is policy to *“protect views to the silhouette and profile of Yarra’s valued landmarks to ensure they remain as the principal built form reference”.*

159. To this end, *“development should protect the views to the drum, dome, lantern and flagpole of the World Heritage Listed Royal Exhibition Building seen from the footpath on the south side of Gertrude Street and along Marion Lane, west of Fitzroy Street”.*

160. It is also important to *“ensure the profile and silhouette of new tall structures adds to the interest of Yarra’s urban form and skyline.”*

Clause 22.05 – Interface uses policy

161. This policy applies to all development and land use applications and aims to reduce conflict between commercial, industrial and residential activities. The policy acknowledges that the mix of land uses and development that typifies inner city areas can result in conflict at the interface between uses.

162. It is policy that *“new non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties”.*

163. Decision guidelines at clause 22.05-6 include that *“before deciding on an application for non-residential development, Council will consider as appropriate:*

- (a) *The extent to which the proposed buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*

164. *Whether the buildings or uses are designed or incorporate appropriate measures to minimise the impact of unreasonable overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances on nearby residential properties”.*

Clause 22.14 – Development guidelines for heritage places in the World Heritage Environs Area.

165. This policy applies to all land covered by the Heritage Overlay within the World Heritage Environs Area (WHEA) Area of Greater Sensitivity (land within HO361 (World Heritage Environs Area Precinct) – see Figure 21 below:



Figure 21 - Extract of Figure 1 of Clause 22.14 which applies to 'land within HO361 (World Heritage Environs Area Precinct) (sites within City of Yarra only).

166. The clause applies to the extent of the built form elements projecting over the footpath, as the site itself is excluded from the 'area of greater sensitivity.

Clause 22.16 – Stormwater management (water sensitive urban design)

167. This policy applies (amongst other instances) to applications for new buildings.

168. Clause 22.16-3 requires the use of measures to “*improve the quality and reduce the flow of water discharge to waterways*”, manage the flow of litter from the site in stormwater and encourage green roofs, walls and facades in buildings where practicable.

Clause 22.17 – Environmentally sustainable development

169. This policy applies (amongst other instances) to applications for new buildings and sets out objectives to achieve best practice in environmentally sustainable development.

Other Documents

Urban Design Guidelines for Victoria (Department of Environment Land Water and Planning)

170. These are policy guidelines within the Planning Policy Framework of the Victoria Planning Provisions that where relevant, must be considered when assessing the design and built form of new development. The guidelines use best practice knowledge and advice underpinned by sound evidence.

Plan Melbourne

171. Plan Melbourne is the overarching strategic planning document that seeks to guide land use and development with the vision that *Melbourne will continue to be a global city of opportunity and choice*.
172. Key elements of Plan Melbourne have been incorporated into the Scheme via Clause 11 in particular however, additional relevant information, outcomes and directions include:
- (a) Metropolitan Melbourne is expected to accommodate an additional 3.4 million people reaching 7.9 million by 2051, with Victoria estimated to have a up to 10.1 million in total; and
 - (b) *Outcome 1 – Melbourne is a productive city that attracts investment, supports innovation and creates jobs:*
 - (i) *Direction 1.1 - Create a city structure that strengthens Melbourne’s competitiveness for jobs and investment;*
 - (ii) Identifies *places of state significance that will be the focus for investment and growth* including health and education precincts with the purpose:
 - *To support health and education services that are well served by public transport in a range of locations across Melbourne. Their specialised economic functions will be reinforced, and they should provide opportunity for ancillary health and education services, retail, commercial and accommodation uses.*
173. The St Vincent’s Hospital is identified as such a precinct. The inner area where the subject site is located is estimated to accommodate an additional 233,000 jobs by 2031 with key industries including *Professional scientific and technical services, finance and insurance services, healthcare and social assistance, public administration and safety*.
174. The subject site is located adjacent to the Central City area which policy seeks to support to become *Australia’s largest commercial and residential centre* by finding new space for industries such as health, medical research and education which are identified as a strength.
175. Policy 1.1.4 deals specifically with health and education precincts noting in particular:
- (a) *Major health and education precincts across metropolitan Melbourne have been identified for further services and jobs growth. These precincts stimulate innovation, create employment and are of fundamental importance to the emerging knowledge economy and surrounding communities; and*
 - (b) *Planning for the growth of these precincts will need to focus on improving access—particularly via public transport—and diversifying job choices. Co-location of facilities (for example, a university with a hospital) will make better use of existing infrastructure and support the growth of associated businesses and industries. Specialised economic functions should be reinforced, but there should also be opportunities to provide ancillary retail, commercial, accommodation and supporting services.*
176. Policy 4.1.3 is to *Strengthen Melbourne’s network of boulevards* with the following relevant description:
- (a) *Melbourne’s grand boulevards—such as St Kilda Road, Victoria Parade and Royal Parade—are wide, generous, tree-lined spaces that serve multiple uses and can accommodate relatively tall buildings. Melbourne should aim to create contemporary boulevards that enhance the city’s distinctiveness, extending these into parts of the metropolis that lack boulevards; and*
 - (b) Policy 4.3.1 is to *Promote urban design excellence in every aspect of the built environment;*
177. Direction 4.4 is to *Respect Melbourne’s heritage as we build for the future where it is noted:*

- (a) *Heritage will continue to be one of Melbourne’s competitive strengths, contributing to its distinctiveness and liveability and attracting visitors, new residents and investors. Heritage is an important component of Victoria’s tourism industry and benefits the economy; and*
- (b) Policy 4.4.1 is to *Recognise the value of heritage when managing growth and change, noting that:*
 - (i) *Realising the community benefit of heritage will require careful management of the ongoing processes of change to the urban environment. Decisions must be based on an appreciation of Melbourne’s past as well as an understanding of its future needs.*

Spatial Economic and Employment Strategy

- 178. The Spatial Economic and Employment Strategy (SEES) was adopted by Council in September 2018 and includes 6 directions which will inform future policy for the Scheme.
- 179. The strategic direction contained within the SEES supersedes that contained within the Yarra Business and Industrial Land Strategy (BILS), adopted by Council in June 2012.
- 180. A Strategy of the SEES relevant to this application is *Strategy 4* which is to “*Support the expansion of health-related employment and services in Yarra’s health precincts*”.
- 181. The strategy acknowledges that within this health precinct, *the health sector is projected to experience significant growth in Melbourne and Yarra is host to two significant health precincts in the metropolitan area. Additional space around the two hospitals would be beneficial for this sector and could involve the conversion of existing commercial or residential land for health sector uses. Furthermore, the health precincts would benefit from land use diversification that supports their primary function, for example with health-related businesses, education, short-term accommodation and convenience retailing. The St Vincent’s health precinct includes the Australian Catholic University (ACU) Melbourne Campus.*
- 182. The SEES also acknowledges that *employment across the precinct is changing, with the evolution of a more diverse commercial employment base focused around the creative sector, service industries, and hybrid office/industrial businesses.*

World Heritage Environs Area Strategy Plan: Royal Exhibition Building and Carlton Gardens (Department of Planning and Community Development, 2009).

- 183. The World Heritage Environs Area (WHEA) Strategy Plan is one of a collection of core documents relating to the conservation and management of the Royal Exhibition Building and Carlton Gardens termed the “World Heritage Management Plan”. The World Heritage Environs Area surrounds the World Heritage Listed Royal Exhibition Building and Carlton Gardens and acts as a buffer zone for the site (see figure 24 below for its extent). The World Heritage Environs Area (WHEA) Strategy Plan contains strategies for the appropriate development of land within the World Heritage Environs Area in order to ensure the World Heritage values of the Royal Exhibition Building and Carlton Gardens site are protected and managed.

- (e) Wind (external consultants Eric Yuen of Vipac Engineers and Scientists Pty. Ltd.);
- (f) City Works Branch (Waste);
- (g) Engineering Services Unit; and
- (h) Strategic Transport Unit.

188. Referral responses/comments have been included as attachments to this report.

OFFICER ASSESSMENT

189. The primary considerations for this application are as follows:

- (a) Strategic Justification;
- (b) Use;
- (c) Built form – Heritage and Urban Design;
- (d) On-site amenity;
- (e) Off-site amenity; and
- (f) Car parking and bicycle provisions.

Strategic Justification

State and local policy

190. The relevant State policy has been outlined above and provides strong support for development to the existing hospital. The key messages that transpire support this proposition from the policy highlighted are:

- (a) Plan Melbourne identifies Melbourne and Victoria's population is expanding and seeks to harness this growth to promote places of State significance such as the St Vincent's Hospital/ACU health and education precinct as a focus for investment. These areas are identified as being close to public transport, stimulating innovation and employment, making best use of existing infrastructure by co-locating facilities;
- (b) These areas are also intended to assist in re-enforcing the central city of Melbourne in becoming Australia's largest commercial centre including through the delivery of an additional 233,000 jobs by 2031 with scientific, health and medical industries identified as key to this;
- (c) The expectation and policy direction of Plan Melbourne for site is included in the scheme specifically at clauses 11.01-1R (Settlement) as a reference document and Council's Municipal Profile at Clause 21.02 of the Scheme, highlighting all those matters discussed above;
- (d) In addition to policy supporting the growth of the site and broader area as an identified health and education precinct, clauses 11.03-2S encourages growth on the edge of the Melbourne CBD more broadly by providing a concentration of major developments in these areas including significant new administrative, research and development and education centre, that would have the ability to attract users from a large geographic area in a location with excellent public transport and infrastructure; and
- (e) Clause 17.01-1-1S (Diversified economy) further articulates the importance of encouraging development that provides a net community benefit by strengthening and diversifying the economy and by facilitating growth in a range of *employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.*

191. At a local level, relevant policy is extensively outlined earlier with the key messages that again provide strong support for the proposed development including:

- (a) The overarching vision for the City that includes provision for increased opportunities for employment with the site being located on the fringe of the CBD adjacent to the Brunswick Street MAC and within a health and education precinct;

- (b) Clause 21.04-3 and 21.04-4 collectively highlight the clusters of interrelated commercial activity in Yarra, the desire to increase the number and range of local employment opportunities. Strategies include the co-location of community facilities especially in areas where they are easily accessible by public transport with shared parking arrangements for people of all abilities; and
- (c) Clause 21.06-2 again encourages large trip generators to be located close to public transport.

192. Notwithstanding the above, the proposed development still has an obligation to acceptably respond to its local physical context in respect of its appearance, height and setbacks. More intensive growth, whilst strongly supported by policy, must further respond to existing conditions and be tempered to respect the existing neighbourhood and heritage character and the site's relationship with adjoining built form and in this instance the WHEA, in terms of producing a reasonable scale and ameliorate or reduce off-site amenity impacts. These factors will be discussed in turn.
193. Having regard to the above, the proposed re-development of the site is considered to have strong strategic planning support.

Need for re-development and expansion and community benefits

194. In addition to consideration of strategic policy regarding location, it is relevant to consider the need for the expansion of the hospital, and community benefits that are likely to flow from it. In respect of community benefits, these are clearly connected with the provision of enhanced and expanded health and education facilities for both the local, metropolitan, state and nation-wide community given the variety of services the hospital provides. These benefits are significant and are also combined with others supported by State and local policy including:
- (a) more employment opportunities including prior to, during and after construction (combined with the opportunities already afforded through the approved development of the ACMD building to the west of the Brennan Hall), supporting the on-going viability of the subject hospital site, including the retail activity centres surrounding it i.e. Brunswick, Gertrude and Smith Streets;
 - (b) contribution to an agglomeration of related activities that will support ongoing innovation and investment in the area;
 - (c) enhanced public spaces through streetscape works funded by the hospital (discussed later in this report); and
 - (d) enhancement of services within an area with equity of access given the proximity of trains, trams and busses as well as enhanced car parking access and location to major thoroughfares and freeways.

Need for a master plan

195. A relevant built form strategy at Clause 21.08-7 (Neighbourhoods – Fitzroy) of the Scheme is "Requiring the preparation of a master plan for St Vincent's Hospital". This is also an objective of Clause 21.04-4 (Community facilities, hospitals and medical services) of the Scheme.
196. In respect of relevant policy, clause 21.04-4 notes that important regional facilities such as St Vincent's hospital must respond to their local context with objective 11 aiming to limit the impact of regional facilities by requiring master plans for hospitals. Clause 21.08-7 includes as one of its land use strategies to require the preparation of a master plan for St Vincent's Hospital. Related to this is the Neighbourhood Map at clause 21.08-7 which includes the same notation directed to land occupied by the St Vincent's public hospital. The Strategic Framework Plan at clause 21.03 highlights a Specialist Medical Precinct on land occupied by the St Vincent's Public Hospital.

197. A master plan is key to providing an opportunity for the hospital, community and Council to participate in a process of consultation to provide greater level of certainty about the hospital's plans for its future expansion. The requirement for a master plan is not mandatory as Council has no local policy stating this is mandatory, nor has it placed a planning control such as the Development Plan Overlay on the site which can require preparation of a plan before a permit is granted. However, it is considered appropriate to continue advocating for the preparation of a master plan and DELWP should be encouraged to further advocate for this to occur as a collaborative effort between Council and St Vincent's Hospital campus.

Use

198. The proposed land uses requiring a planning permit are the education centre, research and development centre and food and drink premises (café) and office, with the hospital use having existing use rights.

199. Relevant policies and guidelines considerations beyond the strategic considerations already considered are the decision guidelines of the Public Use Zone and Council's Interface Uses Policy (Clause 22.05).

200. The decision guidelines of the Public Use Zone to be considered, as appropriate, are:

- (a) *The Municipal Planning Strategy and the Planning Policy Framework;*
- (b) *The comments of any Minister or public land manager having responsibility for the care or management of the land or adjacent land; and*
- (c) *Whether the development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines.*

201. As there is no Minister or public land manager responsible for the land or adjacent land this is not applicable. There are no specific use (or design or siting guidelines) associated with the PUZ3. However, in relation to the purpose of the PUZ3 (health and community) is considered to support the proposed food and drink premises (café) and the more expansive education centre and research and development components proposed as part of this development. The café uses occupy a total of 383sqm of the overall NFA provided to all uses and thus, although not limited to occupants of the building, it will provide support to the other core uses (including the hospital use which does not require a planning permit).

202. The education and research and development centre are interlinked and associated with the hospital and broader purpose of the facility in order to facilitate innovations in health treatments. The uses within the building will be harmonious with the remainder of the St Vincent's Public Hospital complex and are strongly supported by the purpose of the PUZ3.

203. The office component would also be in harmony with the broader spectrum of uses offering space for the administration of students and associated services offered by the ACU and the hospital. However, a nexus with the medical and or education field should be established for uses occupying the proposed building. It is suggested that DELWP enquire further into the end occupiers of the building.

204. In relation to Council's Interface Uses Policy (Clause 22.05) the relevant policy is *New non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.*

205. There are no residential uses in close proximity to the subject land, with the nearest residential uses being dwellings located along Nicholson Street and dwellings within the CBD. These residential uses are separated by a large distance and further built form such that any direct impacts from noise, light-spill, air emissions and waste associated with the proposed uses would be negligible. In addition, no overlooking to residences would be possible from the building given the relevant distance of residences.

206. The application was not accompanied by an acoustic report but it is known that the nearest sensitive interface is the Bolte Wing (building to the north-west from the Brenan Hall, within St Vincent's Public Hospital) as it includes overnight patient wards/rooms. General measures to control noise can be included through a conditions requiring an acoustic report for endorsement and compliance with relevant EPA requirements. A condition would also require a construction management plan to ensure that the immediate and wider area is not adversely impacted by the construction process.
207. In relation to the lack of specified hours of operation for the proposed education centre, research and development centre, café and office, whilst the site is removed from wider sensitive uses, and within close proximity to the Melbourne CBD and in association with (and essentially integrated with) the wider St Vincent's Public Hospital Complex (which includes a 24 hour emergency department), conditions should require restrictions on operating hours and student numbers if DELWP were of the mind to support the application.

Built form - Heritage and Urban Design

208. The primary heritage considerations for this application relate to whether compliance is achieved with Clause 43.01-4 (Heritage Overlay: Decision guidelines), Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) and Clause 22.14 (Development Guidelines for Heritage Places in the World Heritage Environs Area) of the Scheme. The most relevant aspects for the design and built form of the proposed development are found at Clause 15 (Built Environment and Heritage), Clause 21.05 (Built Form) and Schedule 2 (Main Roads and Boulevards) at Clause 43.02-2 (Design and Development Overlay) of the Scheme.
209. These provisions and guidelines all seek a development outcome that responds to the existing or preferred neighbourhood character and provides a contextual urban design response reflective of the aspirations for the area. Regard must be given to the acceptability of the design in terms of height and massing, street setbacks and its relationship to surrounding buildings as well as to the REB and CG (Clause 22.14 (*Development guidelines for heritage places in the World Heritage Environs Area*) of the Scheme).
210. The proposal is considered to be consistent with the relevant built form, design and heritage guidelines. The proposed built form is considered to be appropriately cited and responds positively to the REB (a UNESCO listed site). The extent of demolition of the Brenan Hall has mostly been supported to make way for the construction of the ACMD building west of this and the proposal now intends to include a minor additional area of demolition to facilitate the construction of a lift. The proposal seeks to now absorb the Brenan Hall into the scheme and extend to the north and east of this.
211. This assessment will also consider the building design response to ESD considerations with applicable policy at Clause 22.16 (Stormwater Management) and Clause 22.17 (Environmentally Sustainable Development) of the Scheme.

Context

212. The proposal has a direct interface to the street reserve of Victoria Parade to the south, and the cluster of hospital buildings that the subject site forms a part of to the north and east. Victoria Parade is a designated arterial road within the Road Zone Category 1, and is a 67m wide boulevard with a treed median.
213. The interface with surrounding hospital buildings as described earlier includes buildings scaling between 3 to 7 storeys to the north and to the east beyond the Daly Drive is the Healy Building that is five storeys and hard-edged to Victoria Parade, to the North-east is the Daly building that is seven storeys, and further north of the Bolte Wing is Princes Street and beyond that is the St Vincent's Institute of Medical Research, a four-storey building.
214. Directly opposite the subject site, on the south-east corner of Victoria Parade and Nicholson Street, is a building of 18 storeys with a lower 5 storey podium to the Victoria Parade and Nicholson Street frontages. To the east of this is a four storey red brick building and a modern concrete 7 storey building.

215. The new ACMD marks the corner of Nicholson Street and Victoria Parade having a comparable height to that proposed rising to 53.9m in height.



Figure 22 – Endorsed Southern elevation (associated with Planning Permit PLN20/0567) of the ACMD building to the west of the Brennan Hall

216. To the east of Daly Drive is the Healy Building, a prominent, five-storey face brick building. Surrounding developments with planning permits have also been identified under the *Surrounding Land* heading that are within proximity. These permits have approved taller built forms that support the expansion of the St Vincent’s Private Hospital buildings at No’s. 59 - 77 Victoria Parade, 5 – 7 Brunswick Street & 20 - 32 Fitzroy Street, Fitzroy with the development approved under Planning Permit No. PLN16/0925 and expansion of the car park (see Figure 19) as permitted under Planning Permit No. PLN16/0926 including a development further east of that which is at 12 storeys as approved under a Development Plan Overlay (acknowledging that this is at a much greater distance but forms part of the broader cluster of the hospital and education precinct).
217. Within this context, it is undeniable that the area is strategically identified for growth. The proposal is considered to be a good fit within this context and is consistent with the strategic direction provided by policy for the health and education precinct. It is also comparable to the direction of scale, proportions, built form and mass of approved surrounding development.

Demolition and conservation

218. The extent of demolition is generally limited to the clearance and excavation of the courtyard area and the land to the north and east of the Brennan Hall (noting that the majority of demolition associated the Brennan hall was previously dealt with under the planning permit associated with the ACMD building). The current scheme will generally retain the same portion of the Brennan Hall with an additional section of building on the north, rear side of Brennan Hall that will be demolished to provide for the introduction of a ‘DDA lift’. It is also proposed to expose the retained brick masonry wall by stripping the acrylic paint coating, which will be undertaken in a manner that will not damage the substrate.

219. The Brenan Hall façade will be restored to a colour scheme representative of the buildings 19th century appearance (i.e. Dulux Lama, with windows in a colour equivalent to Dulux Vintage Green). Repairs will also adopt a like-for-like approach, with the testing of mortar and matching of bricks and joint details. The roof structure will retain its gable form and will be recovered in appropriate sheeting and the Brenan Hall will be used as a meeting room
220. The application was peer reviewed by external heritage consultant Anita Brady, who provided comments in support and only required clarity in relation to the proposed finish applied to the east elevation of the Brenan Hall. A façade strategy and materials and finishes plan including conservation management plan as this relates to the Brenan hall will be included as conditions.

New development with regard to Heritage, Urban Design and relationship to the WHEA

221. The strategic planning context for the site has been established and is considered to support a multi-storey building for the purpose of an office, research and development centre and education centre, with a food and drink premises (cafe) consistent with that approved to the west. The development will read as a continuation of built form, albeit with a different architectural response. To identify if this is appropriate, a balance must be achieved between urban design and heritage outcomes for the site having regard to relevant built form polices and in this instance, the significance of the site's location within the WHEA buffer zone (related to the REB and CG located opposite to the west) as set out in the World Heritage Environs Area Strategy Plan.
222. The relevant policy context and guidance includes:
- (a) Clause 15.01-2S – development should contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties;
 - (b) Clause 15.01-5S - recognise and protect cultural identity, neighbourhood character and sense of place;
 - (c) Clause 21.05-1 – Objective 15 - *to protect the setting and context of the World Heritage Listed Royal Exhibition Building and Carlton Gardens;*
 - (d) Clause 21.05-2 - reinforce the existing urban framework of Yarra, retain Yarra's identity as a low-rise urban form with pockets of higher development, development in activity centres should be 5-6 storeys unless specific benefits can be demonstrated, retain, enhance and extend Yarra's fine grain street pattern, ensure that new development contributes positively to Yarra's urban fabric, enhance the built form character of Yarra's activity centres, require development within Yarra's activity centres to respect and not dominate existing built form;
 - (e) Clause 22.03 - *protect the views to the drum, dome, lantern and flagpole of the World Heritage Listed Royal Exhibition Building seen from the footpath on the south side of Gertrude Street and along Marion Lane, west of Fitzroy Street;* and
 - (f) Clause 22.14 – Development Guidelines for Heritage Places in the World Heritage Environs Area.
223. In response to the policy framework applicable to the site and the objectives describing the preferred future character of this precinct clearly anticipating its growth, the proposal at twelve storeys, whilst greater in height than most existing surrounding buildings will be commensurate with other buildings approved by Council in more recent years and the ACMD building that reached a height of 53.9m. The hospital has seen and is continuing to undergo change in terms of taller built forms (both constructed and under construction) in a location where more robust built form such as that proposed is becoming more readily visible.
224. The subject site's location in the buffer zone to the WHEA is a critical consideration point in terms of establishing a position on scale for this site. The WHEA and buffer zone, are intended to assist in conserving and protecting the World Heritage values of the REB and

CG, through managing and controlling development outside the site but within the WHEA and the buffer zone.

225. With the above in mind, the application was referred to an external Urban Design consultant, Mr Simon McPherson of Global South who was supportive of the proposed height. Council’s external Heritage consultant was also supportive of the building height.
226. The proposed development is generally commensurate with (and slightly lower than) the height of the approved AMCD to the site’s immediate west that has recently commenced demolition works. It is also similar in height to other prominent buildings nearby in Victoria Parade (see Figures 23 and 24 below). Buildings in the CBD across Victoria Parade are generally much higher. The overall height to roof level (RL 93.91) is approximately 52.41m above ground level (RL 41.5). In considering the streetscape proportions, this height (without setbacks) is also less than the width of the Victoria Parade corridor. The development is considered to be worthy of Council’s support with regard to its adopted building height given the support expressed in the advice.

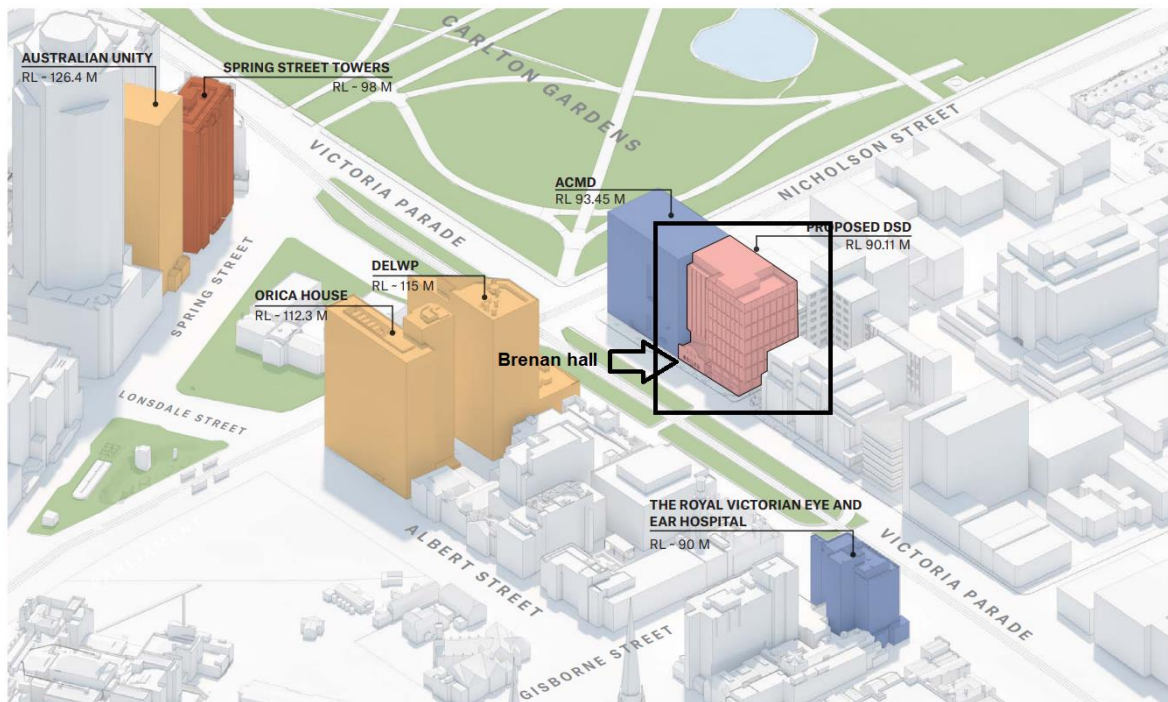


Figure 23 – Street wall analysis identifying surrounding building context / heights within proximity to site extracted from p. 26 of the Urban Context Report and Design Response

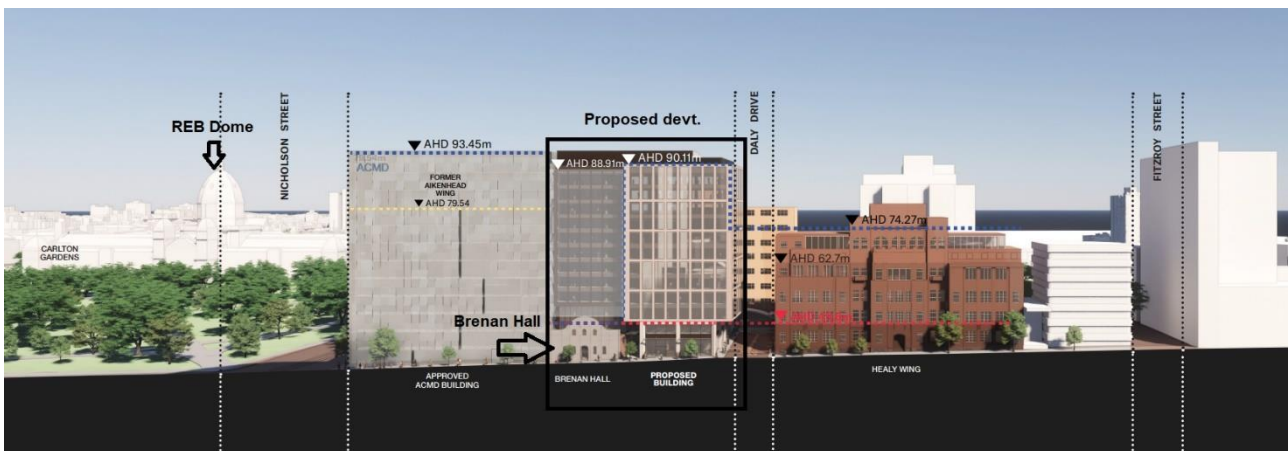


Figure 24 –Victoria parade interface showing comparison of height to ACMD building extracted from p. 42 of the Urban Context Report and Design Response

227. The surrounding context contains developments that have a hard-edged interface as detailed in earlier sections. The planning scheme includes no specific controls that provide guidance

for an appropriate street wall height for the subject site other than principles highlighted in heritage and urban design policy and the context provided by surrounding existing built form.

228. More immediate, the new building will be constructed to the rear (north side) of the retained Brenan Hall, and on the Druids site with two main volumes, with that on the west side set back behind the retained Brenan Hall, that on the east side with no setback to Victoria Parade, rising to 12 storeys, plus roof plant.
229. Council's external a Heritage consultant raised an issue with the cantilever of the new building on the south side over part of the retained Brenan Hall. This encroachment into the space above the heritage building considered as 'crowding the space around Brenan Hall'.



Figure 25 – Section showing cantilever of upper levels over the Brenan Hall extracted from p. 37 of the Urban Context Report and Design Response

230. As can be seen at Figure 25, the cantilever over the heritage building extends into the 7m area set aside for Brenan Hall which was already deemed to be a compromised level of retention in making way for the construction of the ACMD building to the west.
231. A more sympathetic approach was recommended by Ms Brady which seeks more free space, or more 'breathing' space, above the heritage building, further assisting in maintaining the integrity of the Brenan Hall. As such, the proposed cantilever over the south side of the building, which will in part extend over the retained Brenan Hall, is not acceptable and an alternative approach is recommended. Council's external Heritage consultant has recommended the following methods:
- Reduce the extent to which the new DSD building cantilevers to the south by between 1m and 1.5m for the full extent on the south side of the building. Or:*
 - Increase the space above Brenan Hall to where the cantilever starts, as in increase the separation between the top of the heritage building and the cantilever, by two levels; meaning the cantilever would commence at level 5 instead of level 3. Or:*
 - Increase the space above Brenan Hall by reducing the extent of the cantilever between levels 3 and 5, so that it is on angle between 0m and 2m. Or:*
 - A combination or variation of the above.*
232. The above will be addressed with a condition.

Victoria Parade and Daly Drive Interfaces

233. The eastern portion adopts a scale and mass to the street offering a zero setback and a protruding element over the footpath in the form of canopy structures. The proposed building provides fully active ground floor frontages to Victoria Parade (through meeting rooms in Brenan Hall, main lobby entry and two café/retail tenancies), and Daly Drive (through two additional café/retail tenancies). This configuration will provide a high level of activation and visual interaction opportunities, suitable to a hospital precinct. Extensive glazing to the upper levels will provide further passive surveillance opportunities, to both adjoining streets. The renders/vignettes indicate frontages which are highly 'open' and transparent visually, supported by the high floor to ceiling heights of just over 6m (see Figure 26 below). The cantilever over Daly Drive also provides some weather protection along that interface and also frames the entry into the broader hospital precinct.
234. The upper levels across the Victoria Parade interface can be further revised to adopt the additional setbacks described by Ms Brady as these relate to the Brenan Hall with the upper levels of the remainder of the building, extended to the Victoria Parade boundary and cantilevered over the primary entrance and Daly Drive. The development would be broken into two sections representing two more slender forms that are comparable to the scale of built form evident within the hospital complex and the broader area (both existing and emerging).



Figure 26 – South-east corner render of development, at the Victoria Parade and Daly Drive intersection extracted from p. 51 of the Urban Context Report and Design Response

Northern and western elevations

235. The building would have a generous display of fenestration across the northern elevation with articulated concrete panels in the central portion. The western elevation contains a solid wall as this would be constructed to abut the wall of the approved ACMD building. Both elevations have been designed with regard to their context and are supported.

Summary

236. The design approach, to the extent of achieving the policy direction under Clause 21.05-4 (Public Environment) of the Scheme which requires developments to provide pedestrian/human scaled designs at street level that enhance street interaction of each elevation has been appropriately designed. The building will allow for clear visibility of activity from the footpaths along Victoria Parade, with back-of-house entrances to various elements to the north facing the broader St Vincent's Hospital site.

237. The built form and mass is also supported subject to further conditions as these relate to protecting the integrity of the Brennan Hall. The subject site sits within a context that includes existing and proposed robust buildings that have informed its design response.

Light and Shade

238. Due to the orientation of the site, the northern footpath and median treed strip along Victoria Parade will be cast in shadow and indicated below at Figures 27, 28 and 29.



Figure 27 – Proposed 9am shadow (September 22nd) in blue (extract from p.70 of the Urban Context Report and Design Response).



Figure 28 – Proposed 12pm shadow (September 22nd) in blue (extract from p.73 of the Urban Context Report and Design Response).

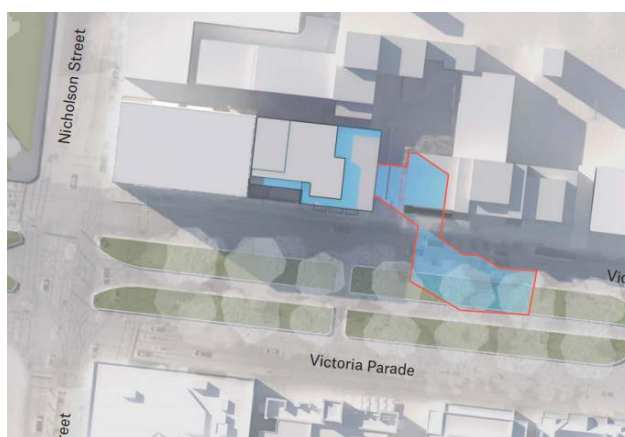


Figure 29 – Proposed 3pm shadow (September 22nd) in blue (extract from p.73 of the Urban Context Report and Design Response).

239. The shadows cast are considered acceptable and are generally commensurate with the shadows that will be cast by the ACMD building and will continue these shadow lines east without any further impact on the opposite, southern footpath along Victoria Parade.

Site Coverage / Permeability

240. The extent of site coverage is acceptable with this context that already includes a cluster of buildings. A high site coverage is part of the commercial character of the wider area that also accommodates hard-edged built form with little or no areas of open space or landscaping.
241. Council's Local policy at clause 22.16 of the Scheme addresses stormwater management and is critical when considering this issue. The policy aims to improve stormwater quality and incorporate stormwater treatment measures into the design of developments.
242. Whilst the context of the area, in particular other developments of a generous scale, are of hard surfaces and limited permeability, many approvals have commonly sought to offset site coverage through stormwater management. Details in relation to this aspect of the development have not been provided and a condition will address this.

Architectural Quality

243. It is considered that the proposed development is of a good architectural quality and will provide active frontages with recessed and sheltered entrances. The proposal reflects a contemporary yet restrained design approach, and creates a refined 'quiet' design expression, in comparison to the more distinctive expression of the ACMD to the west. It is also considered that it has been designed with a subdued form of expression and colour scheme to avoid competing with the Healy building to the east. Subject to an increased setback adopted above the Brennan Hall in the central portion, the development is well considered and can be supported.

Impacts on views and vistas

244. While the subject property is not within the WHEA Precinct (WHEA Precinct, HO361), it is within the general WHEA as associated with the REB and CG. The subject site is within the extended WHEA and the declared new Area, specifically in 'Area 5'. As extracted from Council's external Heritage advice, *this area, and the planning controls associated with it, have recently been subject to review, with the most recent report out of that review being:*
- (a) *Review of the World Heritage Strategy Plan for the Royal Exhibition Building & Carlton Gardens, World Heritage Environs Area, Hansen Partnership with HLCD Pty Ltd, September 2022.*
245. The above report states (at p.2):
- (a) *This draft Strategy Plan constitutes an updated version of an earlier May 2021 draft Strategy Plan. It has been updated to reflect the formal declaration of a new World Heritage Environs Area (WHEA) for the Royal Exhibition Building and Carlton Gardens on 28 July 2022. The WHEA was declared in accordance with section 169 of the Heritage Act 2017 (the Act) by Order published in the Victoria Government Gazette and extends the original WHEA boundary in three areas to the east, south-west and west.*
246. Without going to the status of the report, of the declared new World Heritage Environs Area, and/or of the anticipated planning scheme outcomes, the following points are noted:
- (a) *The subject site is within the extended WHEA and the declared new Area, specifically in 'Area 5'; and*
- (b) *Recommendations are made for Area 5, including amendments to existing planning scheme clauses and to the Design and Development Overlay to address and protect*

views of the REB Dome and its visual dominance; and go to building heights, setbacks and street wall responses.

247. Also, strategies for ‘future management and statutory protection’ of the WHE include the Public Use Zone and St Vincent’s Hospital site, and state:

- (a) Ensure development of the St Vincent’s Hospital site replicates the general maximum height of recently approved hospital redevelopment of land located on the corner of Rathdowne Street [error – Nicholson Street] and Victoria Parade. The new building is 12 storeys and 53.9m in height; and
- (b) Ensure development includes materiality which is influenced by its heritage setting and is of muted materials and colours, and which avoids the use of larger areas of reflective materials.

248. Council’s Heritage consultant has reviewed the development against the relevant provisions of the Scheme and the review report of the WHEA and has indicated that the building is consistent with this given it is cited to the east to the ACMD building and is comparable in height.

Landscaping and streetscape works

249. The application was referred to Council’s Urban Design Unit for comments specifically relating to public realm improvements. In summary, the proposal is not yet acceptable from a public realm / streetscape perspective. Council’s Urban Design Unit requested a detailed landscape/public realm plan to allow Council to make a complete review of the proposal. This can be addressed with a condition requiring a public realm/streetscape, including but not limited to showing all proposed paving materials, surface grading and drainage and all existing/proposed fixtures such as trees, seats, tactiles, handrails and litter bins for endorsement.

250. A provision for bicycle parking has been requested that will be discussed under a separate heading. To maximise the potential canopy coverage of this location (noting that three street trees have already been removed as part of the development approval to the west), it has been recommended that 6 street trees are planted along the Victoria Parade footpath in the configuration detailed at Figure 30.

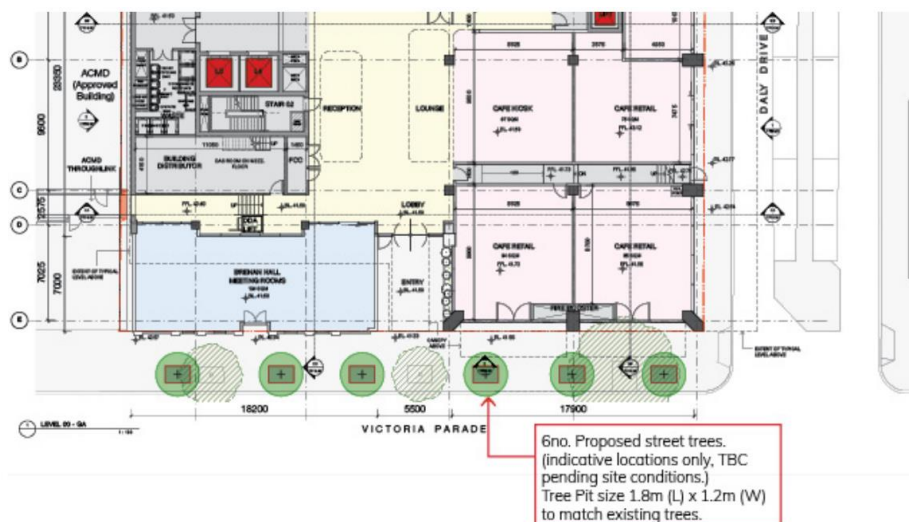


Figure 30 – Indicative tree locations (x6) recommended by Council’s internal Urban Design Unit.

251. Further comments in relation to public realm improvements were also made in relation to the reinstatement of the Victoria Parade footpath (outside the property’s frontage) with asphalt with dressed bluestone kerb and channel and will also form a condition for any planning permit.

252. Council’s Engineering Services Unit have also commented on the streetscape works, recommending a number of conditions with further detail relating to underground utilities and other civil works. These items will be included as conditions.

On-site amenity

Daylight and ventilation

253. The development in general is considered to provide a good level of amenity and indoor environmental quality. Specifically, this is achieved through access to solar and daylight for each level through glazing given the generous void ratio. The building adequately takes advantage of the northern, southern and eastern interfaces through the provision of fenestration. Each floor level would be provided with service amenities and accessible to staff with lifts, stairwells and corridors.

Circulation Spaces

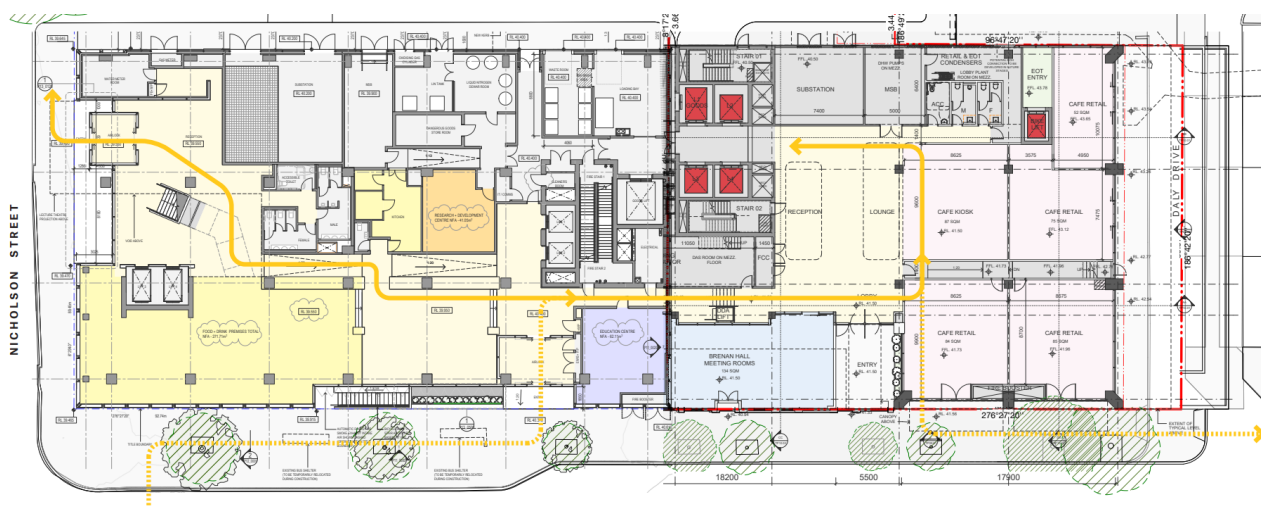


Figure 31 – Circulation and connectivity between the ACMD building and that proposed (extract from p.53 of the Urban Context Report and Design Response).

254. The primary entrance to Victoria Parade, provides access to stairs and lifts servicing the upper levels, and service amenities associated with the building. The main entrances are provided with adequate sightlines so people can see both in and out when entering or leaving. The circulation spaces, in their configuration, afford a good level of amenity to future staff, students, and clients as well as connectivity to the approved ACMD building to the west as seen at Figure 31, above.

Facilities

255. Adequate facilities in terms of service amenities are provided at each level for all occupants of the building. Bicycle parking and end-of-trip facilities are also incorporated into the scheme and this will be discussed in greater detail later in this assessment.

Environmentally Sustainable Design (ESD)

256. Policy at clauses 15.01-2S, 21.07, 22.16 and 22.17 of the Scheme encourage ecologically sustainable development, with regard to water and energy efficiency, building construction and ongoing management. Council’s ESD Advisor identified the following deficiencies and outstanding information with the Sustainable Management Plan (SMP) prepared and authored by Norman Disney Young dated 5 September 2022 and outstanding information:

- (a) *No STORM score or MUSIC model has been submitted. BPEM best practice in stormwater quality must be demonstrated by a STORM or MUSIC model;*
- (b) *No onsite PV solar array has been proposed. Strongly recommend a rooftop solar PV array above the plant room to contribute to onsite electricity consumption demands;*
- (c) *54 bike parking places for over 11,400 sqm of office/education/research falls short of Council's expectations on bicycle parking provision. Recommend one space for 10% of occupants or 114 secure bike parking spaces. Recommend expanding EOT facilities to cater for larger bike parking spaces recommended. The more conservative bicycle*

provision requested by Council's Strategic Transport Unit will be included as a condition as discussed in a later section of this report;

- (d) *No landscaping or green infrastructure proposed. Best practice in urban ecology has not been demonstrated. Strongly recommend that landscaping be introduced to this development to enhance the ecological value of the site;*
- (e) *Prior to occupancy, JV3 energy model or similar demonstrating 20% improvement in energy efficiency over reference building;*
- (f) *Prior to occupancy demonstrate documentation confirming 100% renewable electricity has been procured for the whole site;*
- (g) *Prior to commencement of works, please detail how 10% reduction in embodied carbon will be calculated;*
- (h) *Please update SMP reference to car-share and electric vehicles as no car parking can be identified on plans;*
- (i) *Please submitted the completed Construction Waste Management Plan prior to construction; and*
- (j) *75% of site area comprises one or more strategies that reduce the heat island effect. Prior to commencement of works please detail how this will be achieved.*

257. Council's ESD advisor also identified the following key improvement opportunities:

- (a) *Glass curtain wall design will rely heavily on high performance glazing to deliver the energy efficiency standard proposed. Recommend introducing exterior shading, box window frames or glass spandrel panels to improve thermal comfort;*
- (b) *Recommend recycled materials be incorporated into the material pallet;*
- (c) *Recommend all timber used in FSC certified;*
- (d) *Recommend a small materials pallet, simple construction techniques;*
- (e) *Recommend avoiding PVC and/or using products meeting Green Star guidelines; and*
- (f) *Recommend that green infrastructure be introduced to this development to enhance the ecological value of the site.*

258. The items identified will be addressed with a condition requiring an amended Sustainable Management Plan (SMP).

Wind impacts

259. Vipac reviewed the *Environmental Wind Speed Measurements* report prepared by MEL Consultants for the permit applicant. Vipac provided comments in support of the findings confirming that the MEL Consultants *used the correct model, experimental and analysis methodology to assess the wind effects on the pedestrian level spaces around the proposed development in detail*, with the study finding that *all test areas fulfill the recommended safety and comfort criteria and no wind control measures are necessary*. A condition will only require an updated report that makes appropriate reference to any revised plans required by condition.

Off-site amenity

Visual bulk and overlooking

260. With all interfaces with the subject building being to surrounding hospital / commercial buildings and zoned Public Use and generously separated from Victorian-era buildings to the north, largely built to boundaries, including to streets, the development would not be subject to unreasonable visual bulk impacts and would not result in unreasonable overlooking. It is also an accepted principle that overlooking only occurs between habitable rooms (i.e. bedrooms and living rooms) and private open space. The proposed development is commercial as are surrounding existing buildings.

Noise

261. In respect to amenity impacts, Clause 22.05 of the Scheme seeks to ensure that new non-residential uses do not unreasonably impact dwellings including through noise, light spill, emissions and rubbish. The closest purpose-built dwellings are located approximately 50m to the north on Nicholson Street in the Commercial 1 Zone. There are also dwellings 300m and 670m on the eastern side of Fitzroy Street and northern side of Alma Street, respectively. As such, the separation distance and their orientation, would remove any immediate impact on these dwellings in terms of overshadowing of open space and windows, loss of daylight, noise from plant and equipment, and visual impacts from private open space.
262. A condition of permit requires the submission of an acoustic report, this will address any issues arising with the interface to hospital beds located in the Bolte Wing (building to the north-west from the Brennan Hall, within St Vincent's Public Hospital).

Fumes and air emissions, light spillage

263. The proposal is not considered to result in unreasonable air emissions, and whilst there will be a degree of light spill, the surrounding land is zoned Public Use and non-sensitive.

Equitable development

264. The scheme will have no impact on the equitable development opportunities of adjoining properties. In this instance, the site has a private road to the east and is well separated by buildings to the north.

Car parking, traffic, bicycle facilities, loading and waste

265. The applicant is seeking a statutory parking reduction of 363 car parking spaces. To support the reduction in the statutory rate, a Transport Impact Assessment was undertaken by One Mile Grid Pty. Ltd. and dated 6 September 2022, with parking availability in the neighbourhood also reviewed.

Parking Availability

266. A review of parking restrictions in the area surrounding the proposed development indicates that on-street parking is heavily restricted, and there is limited opportunity for additional long-term staff parking in the area. In fact, employees and students who choose or need to drive would likely use a commercial car park, such as the one underneath Museum Victoria. It is therefore expected that staff, students and patrons would be discouraged from driving to the site, as they will not be able to conveniently park their vehicle long-term on-street in the vicinity of the site.
267. The surrounding area has excellent transport contextually supporting a development of this scale in the inner city. The availability of alternative transport methods will be discussed in turn.

Parking Demand

268. In support of the reduced car parking on-site, One Mile Grid traffic engineering consultants have sourced Journey to Work data from the 2016 ABS Census for the Yarra and Melbourne. The data indicates that the proportion of employees who drive to work in the City of Yarra and the City of Melbourne is 48.9% and 26.7% respectively. One Mile Grid has estimated that office developments would generally provide some 17m² of floor space per employee. (this is considered reasonable). This would equate to 695 employees (based on a total floor area of 11,821 m²). The journey to work by car rate of 26.7% was adopted in estimating the likely parking demand, which results in a total of 186 parking spaces. The Transport Impact Assessment indicates that some five floors of the new building would be occupied by existing occupants from the Hospital and the Australian Catholic University (ACU). Therefore, the parking demand would be in the order of around 102 spaces. This finding has been peer reviewed by Council's engineers and was considered acceptable.

269. The following five key benefits of the site location further justify a reduced rate of on-site car parking:
- (a) Students generally are less likely to own a car, and they would also be aware of the car parking constraints in the area or otherwise be made aware by the occupants of the building, thus also encouraging use of alternative modes such as cycling;
 - (b) It is in line with the objectives of Council's *Strategic Transport Statement* noting that the site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site parking would discourage private motor vehicle use;
 - (c) The Brunswick Street (and Gertrude Street) MAC contains a large range of retail, food and drink, dining, pubs and bars and services and is located within easy walking distance to the subject site;
 - (d) The site is well connected to the Melbourne CBD which commences on the southern side of Victoria Parade; and
 - (e) Public transport services that include trams and buses along Victoria Parade to the immediate south, Brunswick Street to the east, Nicholson Street to the west, Gertrude Street to the north, Parliament Train Station to the south-west, all no greater than a 500m walking distance from the site.

Traffic

270. Council's Traffic Engineers have confirmed and agree with the Transport Impact Assessment by One Mile Grid Pty. Ltd. and dated 6 September 2022 in that any increase in the volume of traffic generated by the development could be accommodated within the local road network without adversely impacting on the traffic operation of nearby streets.

Bicycle parking

271. The application was referred to Council's Strategic Transport Unit, who raised concerns with regard to the lack of visitor bicycle parking. A minimum of 30 visitor spaces were recommended to be provided in a location easily accessible to visitors of the site. Council's Strategic Transport Unit has also recommended a rate of 116 employee bicycle spaces with up to 12 showers / change rooms.
272. Employee bicycle parking is provided at the basement level and it is preferred by Council's Strategic Transport Unit, that either bicycle parking is provided at ground level; or if this is not possible, at least one additional lift be provided to account for the trip generation expected for the number of bicycle parking spaces. In addition, dimensions have not been provided for accessways, the bicycle parking area or for the lift to the bicycle parking area and these items have also been requested. Council's Strategic Transport Unit has made the following recommendations that will be included as permit conditions:
- (a) *A breakdown of the number of employee and visitor bicycle parking spaces proposed to be provided;*
 - (b) *Dimensions of bicycle storage spaces, lifts and relevant access ways noted to demonstrate compliance with Australian Standard AS2890.3 or to the satisfaction of the Responsible Authority;*
 - (c) *Access arrangements to the EOT lifts to be shown on the plans;*
 - (d) *A minimum of 30 visitor bicycle parking spaces in total must be provided;*
 - (e) *A minimum of 116 employee bicycle parking spaces and 12 showers/changerooms in total must be provided;*
 - (f) *The provision of at least one (1) additional dedicated lift to the basement bicycle parking area;*
 - (g) *An assessment of the estimated trip generation of the employee bicycle parking;*
 - (h) *At least 40% of employee bicycle parking to be provided as horizontal (on ground) parking; and*

- (i) *At least 5% of the total number of resident bicycle parking spaces must include electric bicycle charging points immediately adjacent to spaces suitable for electric bicycles to use, i.e. horizontal on-ground spaces with sufficient widths to accommodate a larger electric bicycle, as per AS2890.3 Appendix A – ‘cargo bicycle’ and Section 2.2.8.*

273. It was also requested that a Green Travel Plan be provided and this will also form a permit condition that will be recommended.

Loading

274. In light of the loading bay in the north-west corner, Council's Traffic Engineers have provided comments in support, despite this extending beyond the building footprint, on the basis that it extends into the private land associated with the St Vincent's Hospital campus. A condition will require the plans to be amended to include the dimensions of the loading dock.

Waste management

275. The waste management plan (WMP) authored by One Mile Grid and dated 6 September 2022 was reviewed by Council's City Works Branch, who indicated that it was satisfactory. Given the changes that will be required by condition to the plans, a condition will require an amended WMP that makes appropriate reference to the revised plans.

Other Matters

Financial Implications

276. There are no financial impacts.

Economic Implications

277. The application will create new opportunities for employment and business within this health/education precinct.

Sustainability Implications

278. Sustainability has been considered as part of the assessment and conditions will be recommended to the DELWP.

Social Implications

279. There is a significant net community benefit to be gained with the introduction of an education, research and medical centre.

Human Rights Implications

280. There are no human rights impacts to be considered in this report.

Communications with CALD Communities Implications

281. No CALD community implications are known.

Legal Implications

282. There are no consequential legal implications given that Council is only providing advice to DELWP and is not the RA of the subject site.

Conclusion

283. It is recommended that Council advise the Minister for Planning and the DELWP of the conditions outlined within the 'Recommendation' section should they be of the mind to issue a planning permit.

RECOMMENDATION

1. That Council note:
 - (a) The officer report and the application material;
 - (b) The ongoing need for the preparation of a master plan in accordance with the *Implementation of strategies* at Clause 21.08-7 (Fitzroy) of the Yarra Planning Scheme;
 - (c) The need for the Department of Environment, Land, Water and Planning to enquire into the end occupiers of the building; and
 - (d) That Council write to the Department of Environment, Land, Water and Planning outlining the following conditions be included on any planning permit:

Conditions to be included in any planning permit

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by Bates Smart Architects and dated 15 August 2022 but modified to show:
 - Demolition*
 - (a) Demolition plans showing extent of demolition proposed to Brenan Hall;
 - Design Detail*
 - (b) Details of the proposed canopy to Victoria Parade including height and setback from the kerb;
 - (c) Modified setback of the building as it presents above the retained portion of Brenan Hall as required by the Conservation Management Plan;
 - Bicycles*
 - (d) A minimum of 116 employee spaces provided in compliance with Clause 52.34-3 of the Yarra Planning Scheme and Australian Standard AS2890.3;
 - (e) A minimum of 30 visitor bicycle parking spaces in total provided in compliance with Clause 52.34-3 of the Yarra Planning Scheme and Australian Standard AS2890.3;
 - (f) Dimensions of bicycle storage spaces, lifts and relevant access ways noted to demonstrate compliance with Australian Standard AS2890.3 or to the satisfaction of the Responsible Authority;
 - (g) All visitor bicycle parking spaces must be provided at a horizontal bicycle rail, in compliance with Clause 52.34-3 and Australian Standard AS2890.3;
 - (h) At least 40% of employee bicycle parking must be provided as horizontal (on ground) parking;
 - (i) Clarification on the number of lifts to be provided for access to the Basement bicycle parking area. If only one (1) then at least one (1) additional lift must be provided;
 - (j) All access arrangement to the EOT lifts to be shown on plans;
 - (k) Provision of at least 12 showers / change rooms;
 - (l) An assessment of the estimated trip generation of the employee bicycle parking;
 - (m) At least 5% of the total number of bicycle parking spaces must include electric bicycle charging points immediately adjacent to spaces suitable for electric bicycles to use, i.e. horizontal on-ground spaces with sufficient widths to

accommodate a larger electric bicycle, as per AS2890.3 Appendix A – ‘cargo bicycle’ and Section 2.2.8;

Loading bay

- (n) The dimensions of the loading bay annotated on the ground floor plan;

Reports and Plans

- (o) Any requirement of the endorsed Façade Strategy and Materials and Finishes Plan (Condition 3) (where relevant to show on plans);
 - (p) Any requirement of the endorsed Conservation Management Plan (Condition 4)(where relevant to show on plans);
 - (q) Any requirement of the endorsed Landscape Plan (condition 6) (where relevant to show on plans);
 - (r) Any requirement of the endorsed Sustainable Management Plan (condition 8) (where relevant to show on plans);
 - (s) Any requirement of the endorsed Wind Impact Assessment Report (condition 11) (where relevant to show on plans);
 - (t) Any relevant requirement of the endorsed Acoustic Report (condition 13) (where relevant to show on plans);
 - (u) Any requirement of the endorsed Green Travel Plan (condition 15) (where relevant to show on plans);
 - (v) Any requirement of the endorsed Waste Management Plan (condition 17) (where relevant to show on plans); and
 - (w) Any requirement of the endorsed Public Realm Plan(s) / Works / Road Infrastructure / Street trees (condition 24) (where relevant to show on plans).
2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Façade Strategy and Materials and Finishes Plan

3. In conjunction with the submission of development plans under condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this document. This must detail:
- (a) Elevations at a scale of 1:20 or 1:50 illustrating typical entries and doors;
 - (b) Section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
 - (c) Information about how the heritage façade will be maintained; and
 - (d) A materials schedule and coloured drawings and renders outlining colours, materials and finishes and measures to limit (to the extent possible) graffiti adhesion on walls to the street, including doors, perforations and upper levels (where necessary).

Conservation Management Plan

4. In conjunction with the submission of development plans under Condition 1, a Conservation Management Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Conservation Management Plan will be endorsed and will then form part of this permit. The plan must relate to the valve house and must include:
- (a) Elevations at a scale of 1:20 or 1:50 detailing all conservation and reconstruction

- works to the retained external fabric of the Brenan Hall building;
- (b) details of all façade works to be prepared by suitably qualified heritage architect in associated with a structural engineer;
 - (c) A materials schedule and coloured drawings and renders outlining colours, materials and finishes;
 - (d) Modify the interface of the new section of building above Brenan Hall to:
 - (i) *Reduce the extent to which the new DSD building cantilevers to the south by between 1m and 1.5m for the full extent on the south side of the building. Or:*
 - (ii) *Increase the space above Brenan Hall to where the cantilever starts, as in increase the separation between the top of the heritage building and the cantilever, by two levels; meaning the cantilever would commence at level 5 instead of level 3. Or:*
 - (iii) *Increase the space above Brenan Hall by reducing the extent of the cantilever between levels 3 and 5, so that it is on angle between 0m and 2m. Or:*
 - (iv) *A combination or variation of the above.*

Ongoing architect involvement

- 5. As part of the ongoing progress and development of the site, Bates Smart Architects or another architectural firm to the satisfaction of the Responsible Authority must be engaged to:
 - (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Landscape Plan

- 6. In conjunction with the submission of development plans under Condition 1, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
 - (a) Make appropriate recommendations to “green” the building;
 - (b) Full details of all plant species and their botanical names with re-assurance that selected plants are able to withstand and cope with shade;
 - (c) Incorporation of Green Walls were possible;
 - (d) Details of all paving, surface materials furniture and planters – showing dimensions, drainage, lining, materials and growing media including details of irrigation;
 - (e) A maintenance schedule that includes task details and frequency reassuring the planting, maintenance and survival of all plants; and
 - (f) Details of all landscaping including those combined with the public realm works proposed across the Victoria Parade interface, to the satisfaction of the Responsible Authority.

Ongoing Landscape Plan Requirement

- 7. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The

landscaping shown on the endorsed Landscape Plan must be maintained by:

- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
- (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
- (c) replacing any dead, diseased, dying or damaged plants,

to the satisfaction of the Responsible Authority.

Amended Sustainable Management Plan

8. In conjunction with the submission of development plans under Condition 1, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the *Sustainability Management Plan (SMP)* prepared and authored by Norman Disney Young dated 5 September 2022 but modified to show:
- (a) Stormwater management in accordance with Clause 22.16 (Stormwater Management – Water Sensitive Urban Design);
 - (b) Provision of a rooftop solar PV array above the plant room to contribute to onsite electricity consumption demands;
 - (c) Provision of 116 employee spaces and minimum 30 visitor space in secure bike parking spaces with at least 12 shower / change rooms;
 - (d) Provision of landscaping to enhance the ecological value of the site;
 - (e) JV3 energy model or similar demonstrating 20% improvement in energy efficiency over reference building;
 - (f) 100% renewable electricity has been procured for the whole site;
 - (g) Detail as to how a 10% reduction in embodied carbon will be calculated;
 - (h) Remove reference to car-share and electric vehicles as no car parking is provided;
 - (i) Details of the 75% of site area that comprises one or more strategies that reduce the heat island effect;
 - (j) Provision of exterior shading, box window frames or glass spandrel panels to improve thermal comfort;
 - (k) Provision of recycled materials incorporated into the material pallet;
 - (l) Use of certified FSC timber;
 - (m) A small materials pallet with simple construction techniques and products that meet Green Star guidelines; and
 - (n) Where possible, introduce green infrastructure to enhance the ecological value of the site with landscaping treatments.

Prior to occupation Sustainable Management Plan Requirement

9. Prior to the occupation of the development approved under this permit, a report from the author of the sustainable management plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the sustainable management plan have been implemented in accordance with the approved plan.

Ongoing Sustainable Management Plan Requirement

10. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Amended Wind Impact Assessment Required

11. In conjunction with the submission of development plans under Condition 1, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Impact Assessment will be endorsed and will form part of this permit. The amended Wind Impact Assessment must be generally in accordance with the Wind Impact Assessment prepared and authored by MEL Consultants titled Environmental Wind Speed Measurements dated August 2022, but modified to:
- (a) Assess the proposal as amended pursuant to Condition 1.

Ongoing Wind Assessment Requirement

12. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Acoustic Report

13. Before the development commences, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared and submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must assess and include the following:
- (a) Guidance for managing any impact noise to surrounding hospital buildings that contain patient beds; and
- (b) Recommendations to limit the noise impacts in accordance with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) or any other requirement to the satisfaction of the Responsible Authority.

Ongoing Acoustic Report Requirement

14. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Green Travel Plan

15. In conjunction with the submission of development plans under Condition 1, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel Plan will be endorsed and will form part of this permit. The Green Travel Plan must reference and contain:
- (a) The proposal as amended pursuant to Condition 1;
- (b) A description of the location in the context of alternative modes of transport;
- (c) Employee welcome packs (e.g. provision of Myki/transport ticketing);
- (d) Sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
- (e) A designated 'manager' or 'champion' responsible for co-ordination and implementation;
- (f) Details of bicycle parking and bicycle routes;

- (g) Details of Green Travel funding and management responsibilities;
- (h) The types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);
- (i) Security arrangements to access the employee bicycle storage spaces;
- (j) Signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3; and
- (k) Provisions for the GTP to be updated not less than every five years.

Ongoing Green Travel Plan Requirement

16. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

17. In conjunction with the submission of development plans under Condition 1, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by One Mile Grid and dated September 2022 but modified to:
- (a) Assess the proposal as amended under Condition 1 and its requirements.

Ongoing Waste Management Plan Requirement

18. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Use - Food and drink premises

19. Except with the prior written consent of the Responsible Authority, the food and drink premises authorised by this permit may only operate between the following hours:
- (a) ...TO BE CONFIRMED BY DELWP...

Use – Education centre

20. Except with the prior written consent of the Responsible Authority, the education centre authorised by this permit may only operate between the following hours:
- (a) ... TO BE CONFIRMED BY DELWP
21. Except with the prior written consent of the Responsible Authority, the education centre authorised by this document may only operate with the following student numbers:
- (a) Education Centre - TO BE CONFIRMED BY DELWP...

Use – Research and Development

22. Except with the prior written consent of the Responsible Authority, the research and development centre authorised by this permit may only operate between the following hours:
- (b) ... TO BE CONFIRMED BY DELWP

Transport for Victoria's conditions (## - ##) – TO BE CONFIRMED BY DELWP AS COUNCIL IS NOT THE RA

23.

Public Realm Plan(s) / Works / Road Infrastructure / Street trees

24. Within six months of commencement of the development or by such later date as is approved by the Responsible Authority and the City of Yarra, Detailed Design plans (Civil and Landscape) for Victoria Parade frontage outside the site's property frontage must be prepared, submitted and approved by the Responsible Authority and the City of Yarra. When approved, the plan will be endorsed and will then form part of the permit. The Detailed Design plans must include, but not be limited to, the following:
- (a) Detailed layout plan indicating all existing and proposed features and surface levels;
 - (b) The reinstatement of the Victoria Parade footpath (outside the property's frontage) with asphalt with dressed bluestone kerb and channel and reinstatement of any portion of damaged road outside the property's frontage;
 - (c) Longitudinal sections along the property boundary, back of kerb and invert of the channel;
 - (d) Cross sections from property boundary to property boundary at 5 metre intervals indicating existing and proposed levels at changes in grade;
 - (e) Stormwater drainage in accordance with the Council approved Stormwater Management plan, including design computations, longitudinal sections, pit schedule and details;
 - (f) Detailed layout (size, depth, location) of existing and proposed service utilities, including private property connections to each type;
 - (g) Public lighting plan;
 - (h) Signage & line marking plan;
 - (i) All streetscape details in accordance with the Urban Design and Open Space departments within Council;
 - (j) All surfaces must be designed in accordance with DDA requirements;
 - (k) The maximisation of greenery through the provision of six street trees outside the property's frontage;
 - (l) Distinct delineation between public and private land along all interfaces;
 - (m) All private aspects / infrastructure must be located within the private property boundary and not protrude into the public road reserve; and
 - (n) Existing surface levels must not be altered unless approved by the Responsible Authority. To obtain DDA compliant surface grades the finished surface levels within the private property must be adjusted.
25. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the works shown on the endorsed Public Realm Plan(s) / Works / Road Infrastructure / Street trees Plan required by Condition 24 must be carried out at the permit holders cost and completed to the satisfaction of the Responsible Authority.
26. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority and the City of Yarra, any damage to public infrastructure (footpath, kerb and channel, etc) caused by connection works for underground utility services, must be reconstructed:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
27. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:

- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
28. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority the relocation of any service poles, structures or pits necessary to facilitate the development must be undertaken:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
29. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
30. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the Permit Holder.

General

31. The amenity of the area must not be detrimentally affected by the use or development, including through:
- (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin,
- to the satisfaction of the Responsible Authority.
32. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
33. The development must comply at all times with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021).
34. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
35. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
36. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
37. All buildings and works must be maintained in good order and appearance to the

satisfaction of the Responsible Authority.

38. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
39. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances must be provided on the subject site. Lighting must be:
 - (a) Located;
 - (b) Directed;
 - (c) Shielded;
 - (d) Of appropriate intensity; and
 - (e) to the satisfaction of the Responsible Authority.

Construction Management Plan

40. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
 - (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) works necessary to protect road and other infrastructure;
 - (c) remediation of any damage to road and other infrastructure;
 - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
 - (e) facilities for vehicle washing, which must be located on the land;
 - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
 - (g) site security;
 - (h) management of any environmental hazards including, but not limited to,:
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery;
 - (i) the construction program;
 - (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
 - (k) parking facilities for construction workers;
 - (l) measures to ensure that all work on the land will be carried out in accordance

with the Construction Management Plan;

- (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
- (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
 - (i) using lower noise work practice and equipment;
 - (ii) the suitability of the land for the use of an electric crane;
 - (iii) silencing all mechanical plant by the best practical means using current technology;
 - (iv) fitting pneumatic tools with an effective silencer;
 - (v) other relevant considerations; and
- (q) any site-specific requirements;

During the construction:

- (r) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (s) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- (t) vehicle borne material must not accumulate on the roads abutting the land;
- (u) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (v) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

Ongoing Construction Management Plan Requirement

- 41. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Construction Times

- 42. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Time expiry

43. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit;
 - (b) the development is not completed within four years of the date of this permit; and
 - (c) the use is not commenced within five years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes:

This site is subject to a Heritage Overlay. A planning permit may be required for any external works.

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A vehicle crossing permit is required for the construction of the vehicle crossing(s). Please contact Council's Construction Management Branch on 9205 5585 for further information.

Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the Building Regulations 2018 from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the Local Government Act 1989 and Regulation 133.

Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.

Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch. Any on-street parking reinstated (signs and line markings) as a result of development works must be approved by Council's Parking Management unit.

All future employees, residents, future owners and occupiers within the development approved under this permit will not be permitted to obtain business, resident or visitor parking permits.

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

[Attachments](#)

- 1 PPE22/0228 - 31 - 35 Victoria Parade Fitzroy - Architectural Plans
- 2 PPE22/0228 - 31 - 35 Victoria Parade Fitzroy - Design and Context Analysis
- 3 PPE22/0228 - 31 - 35 Victoria Parade, Fitzroy - Collated referral advice

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

Reference	D22/286472
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' (or "NUA land", being land "Not Under the Act"), which is not contained in any certificate of title and is 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 at 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 (see **Attachment 3**).
- 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 0 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 (which is **Attachment 4**) 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 5**). (**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).

- 4.4 At its meeting on 7 December 2021 Council resolved to declare the Subject Land a public highway. It did so after hearing from one of the Webb St Owners and considering an Officer Report making a Recommendation that the declaration be made.

Council resolved as follows:

*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.*

The declaration of the Subject Land as a public highway was then gazetted.

- 4.5 Council's 7 December 2021 Resolution became the subject of a legal challenge. A Supreme Court proceeding was brought by the George St Owners, challenging the validity of Council's decision.

One of the grounds of legal challenge was that Council had acted invalidly because the George St Owners had not been provided with an opportunity to speak to a written submission previously made to Council.

- 4.6 As Council's lawyers began preparing Council's defence to the proceeding, it was discovered that, due to an administrative oversight by a former member of Council staff, the George St Owners were not advised in advance of the meeting held on 7 December 2021. They were therefore deprived of an opportunity to speak in support of their written submission, with the result that section 223(1)(b)(i) and (iii) of the *Local Government Act 1989* had been breached. These provisions require a Council to give notice to a submitter of the date, time and place of the meeting that will consider submissions, and provide the submitter with an opportunity to be heard in support of their written submission.

The George St Owners and Council agreed that the Supreme Court proceeding should be resolved by the making of consent orders. As a result, on 24 June 2022 the Supreme Court ordered that:

- 4.6.1 the public highway declaration embodied in Council's Resolution of 7 December 2021, as subsequently gazetted, be quashed;
- 4.6.2 Council pay the George St Owner's costs of the proceeding on a standard basis; and
- 4.6.3 the proceeding otherwise be dismissed without any adjudication of the merits.

The effect of the Orders made by the Supreme Court is to treat Council's Resolution of 7 December 2021 as a nullity. In other words, no public highway declaration has, as a matter of law, been made.

- 4.7 After the Supreme Court proceeding was resolved Council wrote to those who had previously made written submissions:
 - 4.7.1 advising them that Council would meet on 25 October 2022 to hear from any submitter who wished to be heard in support of their written submission; and
 - 4.7.2 inviting them to attend the meeting of Council on 25 October 2022 to speak in support of their submission.
 - 4.8 At its meeting on 25 October 2022 Council heard from each of the submitters.
 - 4.8.1 The legal representative of the George St Owners reiterated that:
 - (a) the George St Owners assert that they have enjoyed the exclusive use of the Hiatus Parcel for in excess of 40 years; and
 - (b) there would be no real purpose served by the proposed declaration, since anyone exiting 75-79 Webb Street along Sandeman Place would inevitably need to traverse part of the privately owned land comprising 174-178 George Street, to which there is no legal right of access.
 - 4.8.2 A representative of the Webb St Owners maintained that:
 - (a) for a period of approximately 37 years, the Hiatus Parcel had been used to access the rear of 75-79 Webb Street. In other words, what was said by the legal representative of the George St Owners about exclusive use was disputed; and
 - (b) it is possible to use only the Subject Land to reverse out of 75-79 Webb Street, without traversing any part of the privately owned land comprising 174-178 George Street.
 - 4.9 After hearing from submitters Council resolved to:
 - 4.9.1 note what was said in the written submissions and what had been said in support of those submissions; and
 - 4.9.2 consider those submissions and what had been said in support of those submissions, and an Officer Report such as this, at this meeting.
 - 4.10 Council is, therefore, now at a point where it must decide whether to declare the Subject Land to be a public highway. It is important that Councillors approach this issue taking into account all relevant considerations, and knowing that, in doing so, they are free to reach a different conclusion than that embodied in the Resolution of 7 December 2021.
- 5. Consideration of Submissions and Review of Relevant Issues**
- 5.1 Council officers recently carried out an inspection of Sandeman Place, with particular reference to the Subject Land and the areas and physical features highlighted in **Attachment 2**. They are satisfied that no material changes to the Subject Land (including the relevant areas and physical features) have occurred since the preparation of **Attachment 2**.

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

5.2.1 Adverse possession / ownership claim

- (a) The Opposed Parcel is 'hiatus land' and does not have a title or registered proprietor.
- (b) If they made an adverse possession claim the onus would be 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 would require the George St Owners to prove that they 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.
- (c) The George St Owners assert that their rights of adverse possession derive from them having demarked the Opposed Parcel from the publicly accessible areas of Sandeman Place, by concreting the Opposed Parcel as a parking area which has been exclusively possessed and used by the George St Owners.
- (d) 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 appears to contradict the George St Owners' claims that the Opposed Parcel was in the exclusive possession of the George St Owners for any period longer than approximately 20 months.
- (e) The Webb St Owners maintain that they (and their predecessors) have been accessing and using the Opposed Parcel for at least 35 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.
- (f) 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.

5.2.2 Whether the Opposed Parcel can legally form part of the proposed declaration

- (a) 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.
- (b) However, as the effect of declaring the Subject Land to be a public highway is that it will be:
 - (i) *'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
 - (ii) 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.

- (c) 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 0 and 0 above.
- (d) 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:
 - (i) 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.**);
 - (ii) 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);
 - (iii) 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;
 - (iv) 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
 - (v) the proposed declaration does not appear to interfere with any property rights of the George St Owners, for the reason set out at paragraph 0 above.
- (e) 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:
 - (i) achieving the best outcomes for the municipal community, including future generations (section 9(2)(b) of the Act);
 - (ii) 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
 - (iii) providing for the protection of roads against damage and interference (section 4(2)(k) of the RMA).

5.2.3 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.

- 5.3 Council officers provide the following comments in response to the submissions made by the Webb St Owners:
- 5.3.1 the historical aerial photography of the Subject Land and surrounding areas shows that it was possible for the Webb St Owners to access the Opposed Parcel for the purpose of reversing vehicles, without obstruction or consent from the George St Owners, as asserted by the Webb St Owners. Whether or not such use has occurred is a question of fact; and
 - 5.3.2 the swept path diagrams obtained by Council (contained in Attachment 2) show that the inclusion of the Webb Parcel in the proposed declaration, and its opening for public access, would facilitate vehicular movements across the Subject Land without the need for such vehicles to encroach onto the privately owned land comprising 174-178 George Street.
- 5.4 The Officers are of the opinion that, despite conflicting evidence, it is more likely than not that the George St Owners do not have a good possessory title to the Hiatus Parcel, that the Webb St Owners have, for an extended period, used the Hiatus Parcel (or at least the Opposed Parcel) and that the Subject Land is needed to ensure appropriate access to 75-79 Webb Street. They recommend that the proposed declaration be made.

Discussion

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

Options

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

Community and stakeholder engagement

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

Policy analysis

Alignment to Community Vision and Council Plan

9. Not relevant to this report.

Climate emergency and sustainability implications

10. Not relevant to this report.

Community and social implications

11. A Council determination will provide clarity as to the status of Hiatus Parcel.

Economic development implications

12. Not relevant to this report.

Human rights and gender equality implications

13. Not relevant to this report.

Operational analysis

Financial and resource impacts

14. If the Subject Land is declared to be public highway, Council will be responsible for appropriate maintenance of the road.

Legal Implications

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

Conclusion

16. 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 (including what has been said in support of written submissions):
 - (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) authorises the Group Manager Chief Executive's Office to notify submitters in writing of its decision and the reasons for the decision, being the reasons set out in paragraphs 5.2 and 5.3 of the Officer Report.

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 (including what has been said in support of written submissions):
 - (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) authorises the Group Manager Chief Executive's Office to notify submitters in writing of its decision and the reasons for the decision, being the reasons set out in paragraphs 5.2 and 5.3 of the Officer Report.

Attachments

- 1 Attachment 1 - Copy of public notice published in The Age
- 2 Attachment 2 - Engineering Report
- 3 Attachment 3 – Submission on behalf of the Webb St Owners
- 4 Attachment 4 - Submission on behalf of the George St Owners
- 5 Attachment 5 - Diagram of Opposed Parcel

8.5 Annual Grants 2023 Recommendations Report

Executive Summary

Purpose

This report seeks Council endorsement of the recommendations put forward by the Community Grants Panel for the 2023 Annual Grants program.

Key Issues

The Annual Grants program continues to strengthen the community sector through providing a flexible and responsive source of funds to community-based not-for-profit organisations and artists. Funding is used to support projects that deliver outcomes aligned with the Council Plan and target the areas of highest need within the community. A total of 172 applications were received across twelve grant streams.

Through the Community Grants 2020-2021 Initiation Report on 19 April 2022, Council approved the objectives, guidelines and assessment processes for Annual Grants 2023 (as well as the Annual Grants 2023, Small Project Grants 2022-23 and Room to Create Grants 2022-23).

The Annual Grants were open for applications for seven weeks between 13 June and 31 July 2022.

Financial Implications

On 23 June 2022, the budget for the 2023 Annual Grants Program was approved by Council as part of its endorsement of the 2022-23 Annual Budget.

One hundred and nine applications have been recommended to receive funding totalling \$832,876. The total budget, including the already approved second year of the three-year Community Strengthening grant payments (\$136,500 to 36 groups), is \$969,376.

PROPOSAL

That Council endorses the Community Grants Panels' recommendations for the Annual Grants 2023 program as presented in this report and its attachments.

8.5 Annual Grants 2023 Recommendations Report

Reference	D22/271058
Author	Michael Van Vliet - Team Leader Community Grants
Authoriser	Director Community Wellbeing

Purpose

1. This report seeks Council endorsement of the community grants panels' recommendations for the Annual Grants 2023 program.

Critical analysis

History and background

2. Yarra City Council's Community Grants Program is a significant investment in the community. It is one of Victoria's leading local government grant programs, through which Yarra has established a reputation for its strong support for the community.
3. The Community Grants Program aims to:
 - (a) develop partnerships between Council and community groups to achieve Council's strategic directions;
 - (b) direct resources to both the emerging and specific needs of disadvantaged groups.
 - (c) develop a positive approach to the resolution of local social issues;
 - (d) support local groups, activities and community connectedness; and
 - (e) support community organisations to develop skills and increase community participation.
4. The Annual Grants program is one of the primary avenues of support by Council to community-led projects and activities. The grants provide funding to a wide range of activities by some of Yarra's leading not-for-profit organisations and grassroots community organisations as well as to individual artists.
5. The Annual Grants are divided into twelve funding streams: Arts Development, Climate Action, Community Arts, Community Celebrations, Community Housing, Community Strengthening, Community Support, Family and Early Years, Festivals and Events, Social Enterprise, Sport & Recreation and Youth and Middle Years.
6. Through the Community Grants 2020-2021 Initiation Report on 19 April 2022, Council approved the Annual Grants 2023 objectives, guidelines and assessment process (as well as the Annual Grants 2023, Small Project Grants 2022-23 and Room to Create Grants 2022-23).
7. The Annual Grants were open for applications for seven weeks between 13 June and 31 July 2022. A total of 172 applications were received across 12 grant streams. This was a decrease of 49 from last year when we received 221 applications, which was mainly due to 36 applications from last year being granted three-year grants and not needing to reapply. One hundred and ten applications have been recommended to receive funding totalling \$832,876. The total budget, including the already approved second year of the Community Strengthening grant payments (\$136,500 to 36 groups), is \$969,376.
8. The Annual Grants are subject to regular review to improve the administration of the program and accessibility for applicants. Feedback provided by previous grant applicants, Council officers and other local government grant makers was incorporated into the current program. This is a process undertaken annually.

9. Consultation and engagement activities were undertaken to support access to the grants program. Applicants were advised to contact Council officers before submitting their application to discuss project ideas and gain assistance with the application process, including understanding program objectives, criteria and eligibility requirements.
10. Community training sessions were conducted with residents of Yarra from CALD backgrounds, and were assisted by Council's Bicultural Liaison Officers, to provide one-on-one support in understanding how to apply for grants. This proved to be a successful way to increase access to grant making from groups who had never applied before.

Discussion

11. There are no issues for discussion.

Options

12. There are no options.

Community and stakeholder engagement

13. The Annual Grants are a competitive grant round, and the recommendations are made by external panels comprised of community representatives. The assessment process comprises the following stages as listed in the Initiation Report.
 - (a) Stage 1: An eligibility check conducted by Council officers;
 - (b) Stage 2: Internal Assessment. Council officers assessed the applications against a series of criteria including the capacity of the applicant to deliver on project outcomes, clearly defined project aims, a complete and realistic budget and alignment with Council funding priorities;
 - (c) Stage 3: Community panels assess the applications and decide on the final recommendations to made to Council. Community panels are comprised of external experts along with some Council officers with relevant knowledge; and
 - (d) Stage 4: Final Council endorsement.
14. Council officers from the Sustainability team, Family, Youth and Children, Sport and Recreation, Arts and Culture, and the Community Development unit are closely involved with the grant assessment process. Officers from each unit help determine the grant criteria and provide information to the panels which make the grant recommendations.
15. After each round, feedback is sought on the grants process from Council Officers and panellists to create a culture of continuous evaluation and improvement. Feedback is also sought from applicants on the grants process and is built into the application.

Policy analysis

Alignment to Community Vision and Council Plan

16. The Community Grants objectives are closely aligned with the adopted Council Plan 2021–25 and Community Vision. Community Grants are intended to support the delivery of the Council Plan and are a key means by its strategic objectives can be realised in partnership with the community.
17. All six strategic objectives of the Council Plan are supported through the Grants Program, either via the programs that are proposed and delivered, or through the process of empowering community groups and organisations to deliver them.
18. The objectives from the Council Plan in alignment include:
 - (a) Social Equity and Health – The Grants Program provides a flexible and responsive source of funds to support projects in the not-for-profit sector. The program also supports community organisations in the recreational and sporting sector to encourage greater participation and strengthen their capacity to deliver activities for the wellbeing of the community;

- (b) Democracy and Government – The Grants program empowers community panels to participate in the process of assessing and recommending grants for programs that impact directly on their community;
 - (c) Climate and Environment, Place and Nature and Transport and Movement – These three strategic objectives are served by the inclusion of the Climate Action stream in the Grants Program, encouraging projects that support community members to cycle and adopt cycling as a long-term transport alternative, and help to improve perceptions of cyclists among non-cycling road users; and
 - (d) Local Economy – The Social Enterprise stream of the Grants Program supports the strategic objective of supporting and inspiring diverse creative communities to contribute to the local economy. The Community Development grants support a stream of grants providing funding and support to social enterprise small businesses within the City of Yarra. \$44,000 is being awarded to four small businesses through the social enterprise stream.
19. Other key strategic plans and policies which inform the Annual Grants include the 0-25 Years Plan 2018-2023 – Early Years, Middle Years and Youth; Access and Inclusion Strategy 2018-2024; Active and Healthy Ageing Strategy 2018-2024; Multicultural Partnerships Plan 2019-2023; Yana Ngargna Plan; Climate Emergency Plan 2020-2024; Volunteering Strategy 2019-2023; Social and Affordable Housing Strategy and Homelessness Strategy.

Local Government Act 2020

20. The grants program enables Council to achieve some of the supporting principles of the role and powers of a Council, specifically: the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

Climate emergency and sustainability implications

21. The Climate Action stream of grants aims to encourage and support projects that align with the Climate Emergency Plan 2020-2024. The stream had 17 applications requesting \$114,000 for projects totalling \$677,000 in value. This compares with 26 applications in the 2022 Annual Grants.
22. The funding pool for Climate Action grants has increased from \$42,000 in 2020/21 to \$128,000 in 2022/23. Recommended projects address issues such as climate action, waste reduction, recycling, food security and environmental sustainability.
23. Fourteen applications have been recommended for \$83,755 leaving \$44,245 unspent in the budget. The remaining funding will be distributed in Climate Action Small Grants (up to \$2,000).
24. Grant applicants from across all streams were advised that Council will give preference to those who consider incorporating activities that improve the sustainable outcomes of their projects. The application form requires applicants to consider ways of reducing and reusing resources.
25. Annual Grants applications are submitted and managed through an online grants management system. The online system means that applications do not need to be printed as the assessment process is performed online. The online grants management system has resulted in a dramatic reduction in the amount of paper used in the grants process.

Community and social implications

26. The Annual Grants program aims to address numerous social needs across such areas as: arts and culture, sustainability, community development, sport and recreation, family, children, and youth. The following social objectives are addressed within the grants program as they build a sense of community through:
- (a) cultural activities (community celebrations, observance of traditional celebration days, cultural festivals and events);

- (b) recognition of diversity (projects that strengthen Yarra's diverse community or celebrate and recognise diversity);
 - (c) social cohesion (projects which seek to bring people together and support the development of communities with shared aims and aspirations); and
 - (d) promoting and improving community health and wellbeing through:
 - (i) recreation opportunities (sports, social recreation, walking and improving access to recreational activities);
 - (ii) improving health and wellbeing (food insecurity, nutrition, skills development, health information, social engagement and support); and
 - (iii) promoting community safety through diversionary or preventative projects.
27. Fifty-two applications (30% of all applications) were for projects that take place in one of Yarra's public housing estates or primarily engage public housing residents.

Economic development implications

28. The Annual Grants continue to strengthen the community sector through providing a flexible and responsive source of funds to community-based not-for-profit organisations. Funding is used to support projects that deliver outcomes outlined within the Council Plan and target the areas of highest need within the community. The ultimate aim is to improve the long-term outlook for local families and businesses through strengthening the capacity of the local not-for-profit sector and generate economic activity.
29. Annual Grants also redistribute funds to the disadvantaged in the community. The festivals and events bring economic benefits and assist with branding Yarra as a destination city. Projects that support new arrivals, young people and families through skills development or projects that support service coordination have a direct economic benefit.

Human rights and gender equality implications

30. The Annual Grants Guidelines are in alignment with the Victorian Charter of Human Rights and Responsibilities Act 2006 and actively supports people to participate in and contribute to their community.
31. The Annual Grants applications seek information on how applicants will address issues of gender inequality in their proposed initiative, ensuring that planning and forethought on this issue is addressed from the outset.

Operational analysis

Financial and resource impacts

32. A total of \$832,876 has been recommended for 109 grants. The total budget, including the already approved second year of the three-year Community Strengthening grant payments (\$136,500 to 36 groups), is \$969,376. This is a slight decrease from the 2022 Annual Grants when \$996,680 was allocated to 159 grants.
33. Applicants were asked to specify the total cost of their project, as well as the amount requested from Council. In total, more than \$1.8m was requested for projects worth more than \$9.5m.
34. Council is enabling larger projects to take place through its funding. For example, if the total cost of a project is \$10,000 and \$2,000 is requested with the remaining \$8,000 to be raised by the community or provided by in-kind donations or other grant funding, then Council's \$2,000 enables a \$10,000 community benefit. **Table 1** shows that \$965,376 of Council funding enables projects to occur that have a dollar value of more than \$4.4m. This does not include the sizable social value also generated by these projects.

Table 1

Overall spending on Grants by Council	Overall project value that Council has enabled	Leverage potential of Granting
\$969,376	\$4,450,000	\$1 spent: \$4.00 value

Legal Implications

35. There are no identified legal implications.

Conclusion

36. The recommendations for Yarra City Council's Annual Grant 2023 program are provided in the attachments to this report. All applicants are to be commended for their efforts to improve local amenity through their work. The grants round is competitive and there is a significant commitment from the citizens of Yarra and local groups and organisations to be involved in this process to the benefit of all.
37. The Annual Grants are one of the major ways in which Yarra City Council demonstrates its commitment to supporting the community and highlights the diversity of community-initiated projects, events and activities that take place across the municipality, making Yarra such a vibrant place to live.

RECOMMENDATION

1. That:
- (a) Council endorse the Annual Grants 2023 Community Grants panel's recommendations as listed in Attachment One to award 109 grants totalling \$832,876; and
 - (b) Council thank the members of the Community Grants Panels for their time, deliberation and commitment to Yarra's Community Grants program.

Attachments

- 1 Attachment 1 - Alphabetical list of grant recommendations
- 2 Attachment 2 - Annual Grants 2023 Recommended
- 3 Attachment 3 - Annual Grants 2023 Not Recommended - *Confidential*

8.6 Quarterly Annual Plan Progress and Financial Report (to 30 September 2022)

Executive Summary

Purpose

To present the 2022/23 Quarter 1 Annual Plan Progress and Financial Report ending 30 September 2022.

Key Issues

Presentation of the 2022/23 Annual Plan Progress and Financial Report for the period 1 July 2022 to 30 September 2022.

Financial Implications

Actions in the Annual Plan are funded in the Annual Budget.

The price of several goods and services may experience significant fluctuations during 2022/23. Officers will continue to monitor the impacts of inflationary pressures during the second quarter 2022.

PROPOSAL

Council note the results of the Quarterly Annual Plan Progress and Financial Report (to 30 September 2022).

8.6 Quarterly Annual Plan Progress and Financial Report (to 30 September 2022)

Reference	D22/289571
Author	Dennis Bastas - Chief Financial Officer
Authoriser	Director Corporate, Business and Finance

Purpose

- To present the 2022/23 Quarter 1 Annual Plan Progress, and Financial Report ending 30 September 2022.

Critical analysis

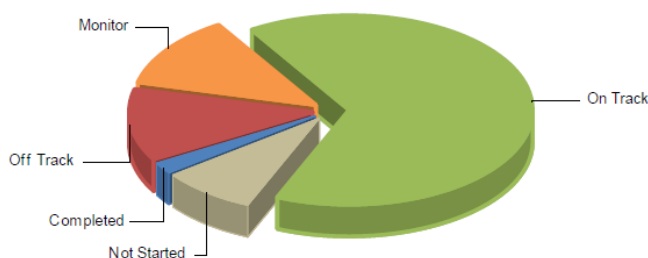
History and background

- The Budget and Annual Plan were adopted by Council on 23 June 2022. The Annual Plan and Budget deliver Year 2 Initiatives in the Council Plan.
- This year 2022/23, is Year 2 of the Council Plan 2021-25 incorporating the Municipal Health and Wellbeing Plan, adopted by Council on 19 October 2021 in accordance with the Local Government Act 2020.

Discussion

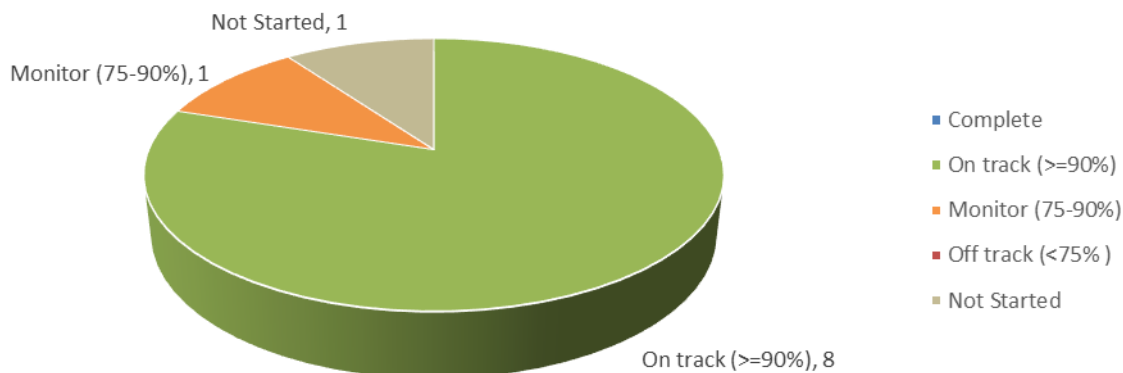
2022/23 Annual Plan Quarter 1 results

- At the end of September, 73% of Annual Plan actions scheduled to have started (45 of 49 actions) are On Track or Complete. Four actions have not started or have no milestones to report on in the first quarter. The annual performance target is 75%.



Strategic Objective	No. of Actions Reported	Complete	On track (>=90%)	Monitor (75-90%)	Off track (<75%)	Not Started
Climate and environment	10	0	8	1	0	1
Social equity and health	11	0	7	1	2	1
Local economy	4	0	4	0	0	0
Place and nature	7	0	2	2	1	2
Transport and movement	6	0	1	2	3	0
Democracy and governance	11	1	10	0	0	0
	49 (100%)	1 (2.04%)	32 (65.31%)	6 (12.24%)	6 (12.24%)	4 (8.16%)

Strategic Objective 1 Climate and environment

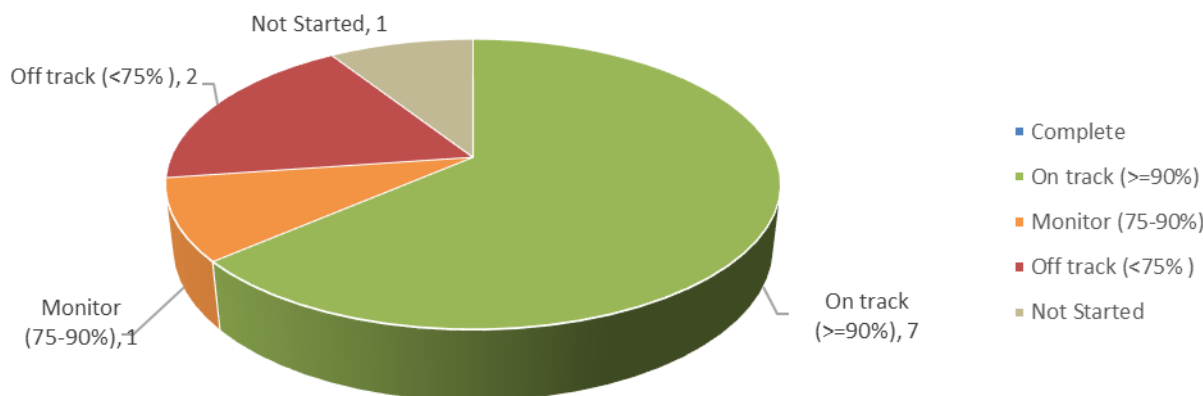


5. Climate and environment actions include work to transition Council buildings off gas, supporting and engaging households and business to transition to zero carbon, progress zero carbon development, continue transition of Council’s fleet to low emissions options and programs and initiatives to reduce organic and plastic waste and support circular economy solutions.
6. Nine of ten actions have commenced reporting in Q1 and eight are on track.
7. The status of the following action is Monitor (75-90%):

(a) 1.08 Reduce organic waste:

A report on a preferred FOGO service model was scheduled to go to Council in the first quarter. The report is being developed and timing of its presentation is yet to be confirmed.

Strategic Objective 2 Social equity and health



8. Social equity and health actions in the Annual Plan include commencing construction of Collingwood College early childhood centre, progressing the Collingwood Town Hall Precinct Community Hub project, programs and initiatives to support children and young people, older people, culturally diverse and LGBTIQ communities.
 9. Ten of eleven actions have commenced reporting in Q1 and seven are On Track.
 10. The status of the following action is Monitor (75-90%).
- (a) 2.05 Active and Healthy Ageing Strategy and Action plan 2021-23

The Companion Animal Program was anticipated to be re-established by the end of the first quarter but has been delayed while recruitment for the Positive Aging Program Officer takes place.

11. The status of the following actions is Off Track (<75%):

(a) 2.02 Collingwood Town Hall Precinct Community Hub Project:

A report to Council was scheduled in the first quarter. Further research was required and is being undertaken by Officers; and

(b) 2.06 National aged care reforms:

Decisions on service provision options for Home Care and Home Maintenance by Council have been paused following the announcement from the Federal Government of its intention to extend the Commonwealth Home Support Program funding agreement until 30 June 2024.

12. The following 2021/22 Annual Plan actions were incomplete at the end of June 2022. An update on progress is provided for each Action:

(a) Yana Ngargna Plan:

There has been no further progress on this action.

(b) 3-year-old kindergarten reform:

Three-year kindergarten was promoted on Council's internet and social media, community playgroups and Maternal Child Health information packs. Promotional material was also sent directly to families using family and children's services. Council's managed kindergarten services are already at 95% full for 2023 enrolments. Work opportunities were promoted via Council's website and employment advertising platforms and through universities and TAFES;

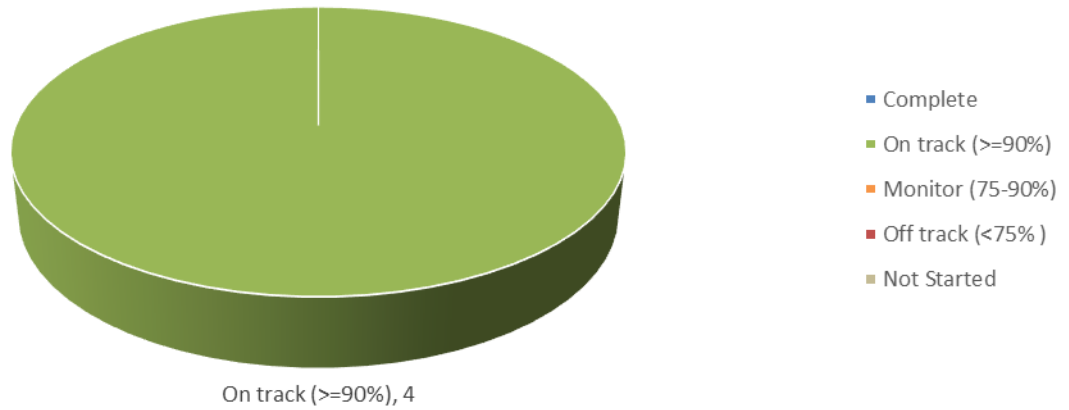
(c) Collingwood Senior Citizen Centre including Willowview:

Preliminary activities including permit processes in progress. Building works including replacement ceilings with improved acoustics and energy efficient lighting along with compliant access ramp scheduled to commence in January 2023 and be complete by April 2023. Audio-visual equipment is expected to be installed in same period; and

(d) Chas Farquhar Children's Services complex:

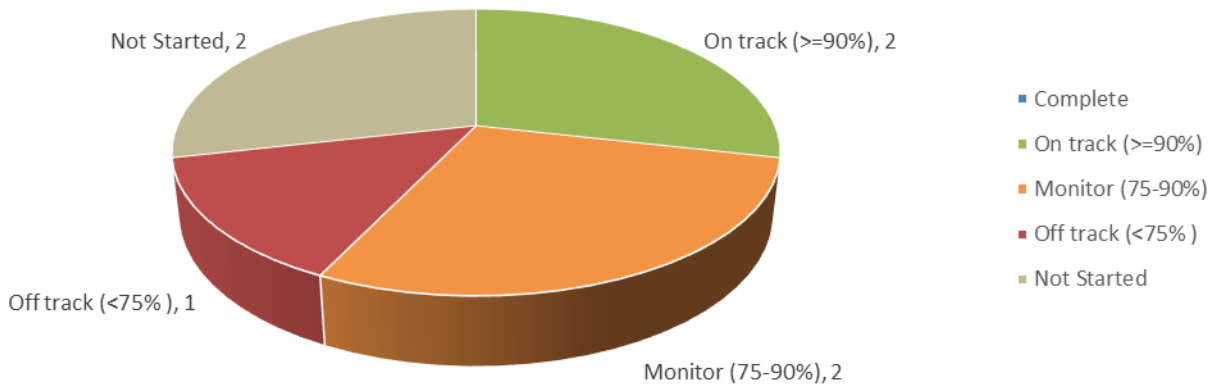
The project will complete the transition of the Chas Farquhar complex to an integrated community hub by creating a community room and outdoor area, and extending/upgrading the Richmond Preschool. Construction commenced later than anticipated due to delays with statutory permits and water authority approvals and redesign for revised building footings and more extensive site preparation works. Construction activities are now well advanced, although there have been further delays during construction due to wet weather and site restrictions associated with Greater Western Water mains upgrade works. Completion is forecast early in 2023.

Strategic Objective 3 Local economy



- 13. Local economy actions in the Annual Plan include promotion of arts and culture, supporting new business through the approvals process, developing accessible information for potential businesses to locate vacant properties and work to understand community perceptions of safety.
- 14. All four actions have commenced reporting in Q1 and are on track.

Strategic Objective 4 Place and nature

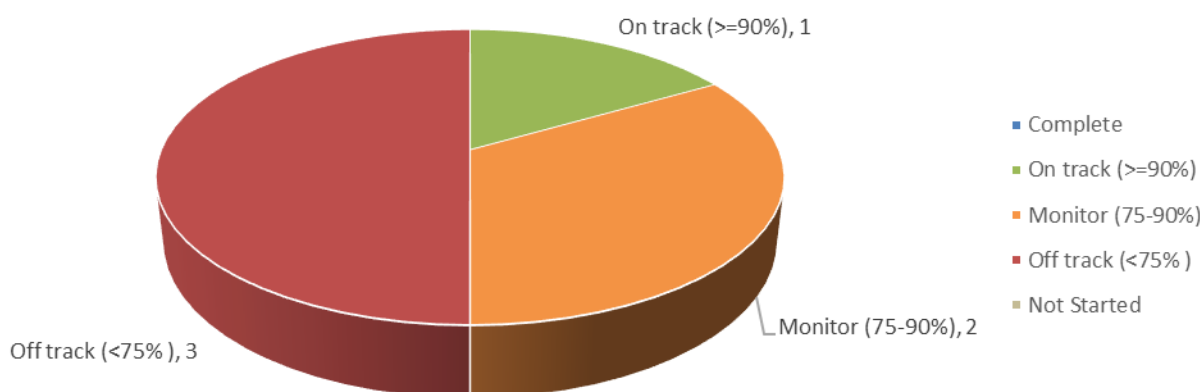


- 15. Place and nature actions in the Annual Plan include the Cremorne Urban Design Framework, new parks in Cambridge Street and Otter Street, the redevelopment of Brunswick Street Oval Precinct, renewing Yambla Street Pavilion, direct seeding and cultural burning bushland management, nature engagement programs and greening initiatives including tree planting and measuring tree cover canopy.
- 16. Six of seven actions have commenced reporting in Q1 and two are On Track.
- 17. The status of the following actions is Monitor (75-90%):
 - (a) 4.01 Cremorne Urban Design Framework:
A draft Cremorne Urban Design Framework was scheduled to be presented to Council by the end of September and has been rescheduled to the end of October; and
 - (b) 4.03 Brunswick Street oval precinct redevelopment:
The Planning and Heritage approval applications were both scheduled to be lodged by the end of September. The planning application has been lodged and the heritage application is in progress and is expected to be lodged by the end of October.

18. The status of the following action is Off Track (<75%):
- (a) 4.05 Direct seeding and cultural burning:
A pre-burn habitat assessment, scheduled to be completed by the end of September, will now commence at the end of spring.
19. The following 2021/22 Annual Plan actions were incomplete at the end of June 2022. An update on progress is provided for each Action.
- (a) Progress the translation of interim controls into permanent controls for Activity Centres:
Built form provisions for Bridge Road and Victoria Street were adopted with changes by Council on 2 August 2022. The amendment was forwarded to the Minister for Planning and is awaiting a final decision.

On the proposed amendment for Fitzroy/Collingwood Stages 1 and 2 Officers have undertaken informal consultation on interim built form controls proposed by Council during September/October 2022.
- (b) Brunswick Street Activity Centre Urban Design – Kerr Street Outstand:
The original tender price exceeded the project budget. Subsequently, the design was amended to bring it within budget (approx. \$182k). Tender has been awarded and works are anticipated to commence in January 2023.

Strategic Objective 5 Transport and movement



20. Transport and movement actions in the Annual Plan include adoption of the Transport Action Plan, delivering active transport projects, advocacy for public transport, designing and implementing road safety studies and supporting shared micro-mobility, car share and ride share schemes.
21. All six actions have commenced, and one is On Track.
22. The status of the following actions is Monitor (75-90%):
- (a) 5.02 Active transport:
A timetable of active transport projects for 2022/23 was scheduled to be provided to Councillors by the end of September. This has been delayed while the Transport Action Plan is being developed. Projects underway this year include Somerset Street/Davison Street modal filter (complete), Scotchmer Street priority crossing lighting upgrade, and bicycle parking corrals at Moor Street and Easey Street; and
- (b) 5.06 Parking technology improvements:
The installation of cashless meters has been delayed as the meters cannot be supplied until November.

23. The status of the following actions is Off Track (<75%):

(a) 5.01 Transport Action Plan:

The Transport Action Plan was scheduled to go to Council for public exhibition. The Action Plan is being developed and will be presented to Council later in the financial year;

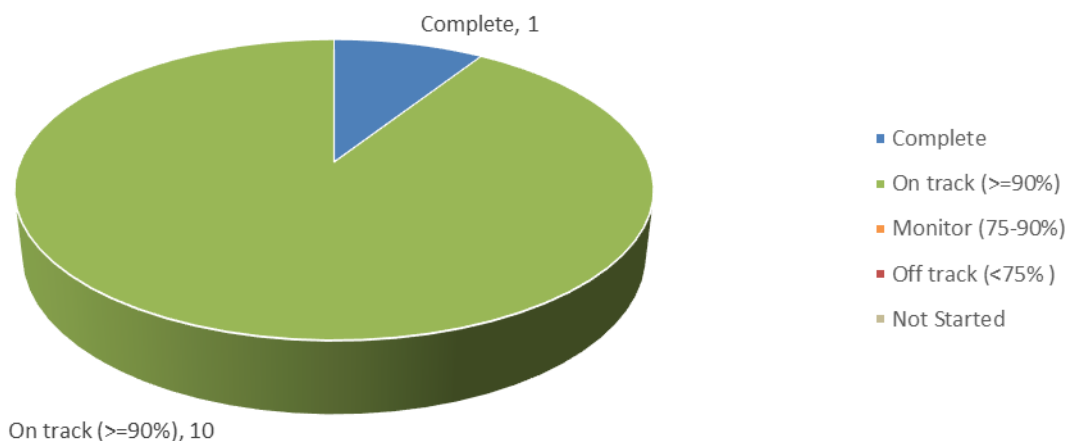
(b) 5.03 Road safety studies and implementation program:

The Alphington precinct/corridor study has not commenced as planned while a co-funding agreement with the Victorian School Building Authority, following their works to expand the Alphington Primary School, is being finalised; and

(c) 5.04 Advocate for improved public transport:

Councillors will be updated on the program of advocacy initiatives following discussions between Strategic Transport and Advocacy and Partnerships.

Strategic Objective 6 Democracy and governance



24. Democracy and governance actions in the Annual Plan include initiatives to review Council’s strategic documents, investigate the Sustainable Development Goals, projects to improve engagement with youth and underrepresented members of the community, work to build partnerships to support strategic advocacy priorities, development and implementation of the Gender Equality Action Plan and the review and adoption of new Governance Rules.

25. All actions have commenced and are on track.

26. The Governance Rules Review was completed. The new Governance Rules were fully implemented and became effective on 1 September 2022.

Financial Performance for the first quarter ending 30 September 2022

27. The September 2022 Finance report has been prepared and includes an update to the forecast for key revenue and expenditure balances.

28. YTD actual results to YTD budget is favourable by \$5.7M. This result is primarily driven by the following:

(a) Operating grants higher than budget (\$2.5M) mainly due to unbudgeted grant income carried forward from 2021/22 primarily for the System and Online Portal Development and Activation of Unused Property projects;

(b) Capital grants higher than budget (\$0.8M) mainly due to unbudgeted grant income carried forward from 2021/22 for a number of projects including road safety;

(c) Employee costs less than budget (\$0.9M) due to YTD vacancies;

- (d) User fees higher than expected (\$0.6M), driven by the variable nature of compliance and construction, and
 - (e) Bad and doubtful debts favourable to budget (\$0.4M) due to updated assessment of the closing debtor balance at the end of the quarter.
29. These favourable outcomes are offset by unfavourable variances of:
- (a) A reduction in statutory fees, (\$0.5M) as a result of reduced activity level due to the unexpected additional public holiday, weather events and challenges with resourcing, including unforeseen higher than anticipated casual staffing costs, despite staff shortages.

Cash Position Including Intended Allocations

30. As at 30 September 2022, unrestricted and unallocated cash position is \$5.4M, which is a slight improvement from \$4.7M as at 30 June 2022.

Capital Works Program

31. The actual expenditure YTD is \$5.1M and aligns with the budget YTD.
32. Budget carried forward from 2021/22 is \$17.3M, consisting of \$15.2M of carry-forwards in the adopted 2022/23 budget plus further carry-forwards of \$2.0M based on the final position of projects at the conclusion of the 2021/22 financial year.
33. Key information about Capital Works progress is included in the Capital Works section of **Attachment 2 (Financial Report)** pages 6 and 7, including commentary on the performance of individual programs. Capital Works financial summary information is in the Appendix – Statement of Capital Works on page 11 of that attachment.
34. The capital works program is subject to adjustments by CEO under delegation to deliver best value outcomes in response to various issues including variations to current projects, substitution in response to changing priorities, urgent works being identified, additional external funding obtained for new projects, or funds carried forward to the subsequent budget year for projects in progress that cannot be completed within the current budget year.
35. **Attachment 3 (Capital Works Program Adjustments – September 2022)** identifies all capital works budget adjustments for the period 1 July 2022 to 30 Sep 2022, with the rationale for those adjustments, that occurred as part of managing Council's capital works program during this quarter.
36. Council's capital works program for 2022/23 includes \$38.8m of newly adopted capital works, along with a total of \$17.3m carried forward, for a total start-of-year capital works budget of \$56.1m.
37. In 2021/22, Council delivered a total of \$33.6m of capital works. Given the relatively large size of the 2022/23 capital works program (inclusive of funds carried forward), a critical analysis was performed during the first quarter to identify capital works projects at risk of not being fully delivered in 2022/23 (due to internal capacity limitations and/or external factors). Analysis YTD indicates a total of \$11.5m of expenditure at risk of non-delivery in 2022/23, and to date \$9.3m of this has been reflected in the expenditure forecasts contained in the Statement of Capital Works (within Attachment 2).
38. It is noted that construction projects are facing extra-ordinary cost pressures with unexpectedly high construction material and labour price escalation being widely reported in the general media and industry circles along with more tenderers seeking rise and fall clauses in contracts rather than offering fixed price lump-sum contracts, reducing price certainty. Work is being undertaken to quantify the potential impact on budgeted projects with updated cost estimates by project quantity surveyors or to otherwise review and test project budget assumptions.
39. Officers will continue to monitor the at-risk projects and cost impacts and will provide a further update and advice to Council in relation to the capital works program as part of the mid-year budget review.

September 2022 Forecast Results

40. The net result of the September forecast 2022 identified minor savings across individual branches however, these were largely offset with increasing cost pressures in contracts across the Yarra City Council.
41. The September Forecast provides the following results:
 - (a) The September forecast review includes increases in:
 - (i) grants (\$4.3M); and
 - (ii) savings in insurance (0.3M); and
 - (b) Offset by:
 - (i) Statutory fees and fines (\$0.5M), as a result of the decline of revenue during the first quarter.
42. The September review also identified considerable increases in expenditure that offsets income gains, being:
 - (a) expenditure to deliver the total grant related program, (material and services and employee costs (\$4.3M);
 - (b) increased costs for contracts in city works (\$1.3M), and
 - (c) increases to the price of utilities (\$0.2M).
43. Officers will continue to monitor performance actual to forecast during the second quarter in preparation of the mid-year budget review.

Options

44. There are no options considered in this report.

Community and stakeholder engagement

45. The Annual Plan Progress and Financial Report will be made available to the community when it is published on Council's website.
46. The Annual Plan is informed by Initiatives in the adopted Council Plan 2021-25 and extensive community engagement was undertaken during the development of the Council Plan 2021-25.
47. Projects in the Annual Plan are subject to community consultation and engagement on a project-by-project basis.
48. 2022/23 Budget engagement was undertaken in November-December 2021 and further community feedback was sought following adoption in principle for 2 weeks in April/May.
49. A special Council meeting was held in May 2022 to hear community members who wished to speak in support of their feedback.

Policy analysis

Alignment to Community Vision and Council Plan

50. Yarra 2036 Community Vision:
 - (a) The Council Plan 2021-25 Strategic Objectives address all Themes in Yarra 2036 Community Vision.
51. Council Plan 2021-25:

- (a) This report provides an overview of progress against actions in the 2022/23 Annual Plan that respond to all Strategic Objectives and Year 2 Initiatives from the Council Plan 2021-25.

Climate emergency and sustainability implications

52. The Council Plan 2021-25 includes a Strategic Objective 'Climate and environment' that addresses climate emergency and sustainability implications. The Annual Plan includes ten actions that respond to Initiatives in this Strategic Objective.
53. The Council Plan 2021-25 includes a Strategic Objective 'Transport and movement' that is an integral part of our climate emergency response to reduce transport emissions. The Annual Plan includes six actions that respond to Initiatives in this Strategic Objective.

Community and social implications

54. The Council Plan 2021-25 incorporates the Municipal Health and Wellbeing Plan that guides how Council will promote health and wellbeing across the municipality.
55. The Council Plan 2021-25 includes a Strategic Objective 'Social equity and health' that addresses community and social implications. The Annual Plan includes eleven actions that respond to Initiatives in this Strategic Objective.
56. The Council Plan 2021-25 includes a Strategic Objective 'Place and nature' which recognises the important role that public places, streets and green open space have in bringing our community together. The Annual Plan includes seven actions that respond to Initiatives in this Strategic Objective.

Economic development implications

57. The Council Plan 2021-25 includes a Strategic Objective 'Local economy' that addresses economic development implications. The Annual Plan includes four actions that respond to Initiatives in this Strategic Objective.

Human rights and gender equality implications

58. The Council Plan 2021-25 includes a Strategic Objective 'Social equity and health' that addresses human rights and gender equality implications. The Annual Plan includes eleven actions that respond to Initiatives under this Strategic Objective.

Operational analysis

Financial and resource impacts

59. Actions in the Annual Plan are funded in the Annual Budget. Any change to the Annual Budget may have a consequent change in the Annual Plan.
60. The price of several goods and services may experience significant fluctuations during 2022/23. Officers will further assess the impacts of inflationary pressures during the second quarter 2022.

Legal Implications

61. There are no legal implications.

Conclusion

62. The Annual Plan Progress result at the end of the first quarter is 73% of actions that have commenced are either On Track or Complete. There are no actions 'at risk' at the end of the first quarter.
63. The 2022/23 Annual Plan Progress and Finance Report (to September 2022) is presented to Councillors for review and discussion.

RECOMMENDATION

1. That:
 - (a) Council note the results of the Quarterly Annual Plan Progress, Financial Report and Capital Works Progress to 30 September 2022.

Attachments

- 1 Annual Plan Quarterly Progress Report September 2022
- 2 Financial Report 30 September 2022
- 3 Capital Works Program Adjustments September 2022

8.7 Yarra Energy Foundation - Appointment of Chairperson and Directors

Reference	D22/287530
Author	Ivan Gilbert - Group Manager Chief Executive's Office
Authoriser	Group Manager Chief Executive's Office

Purpose

1. To determine on the appointment of Directors (as required) to the Yarra Energy Foundation (YEF) for presentation to the YEF Annual General Meeting scheduled to be held on 28 November 2022.

Critical analysis

History and background

YEF Project and Operation

2. At its meeting 16 February 2010 Council resolved to establish an Interim Yarra Energy Foundation Steering Committee and to appoint the Chair, Board Members and CEO of the Energy Foundation.
3. The purpose in establishing the YEF was to promote, preserve and protect the environment by radically reducing greenhouse gas emissions and achieving sustainable carbon neutrality in the municipality.
4. The YEF Board and Executive has over the period since its establishment, presented Council with periodical reports on their progress in researching, developing and implementing a formal program to achieve its goal and the Key Performance Indicator as set by the Council. YEF is becoming recognised in the sector and has attracted notable grant funding as a consequence.

YEF Annual General Meeting: Appointment of Directors

5. Yarra City Council is the sole shareholder (funding member) of the YEF and in accordance with the YEF Constitution is the only body entitled to nominate a person/s to serve as a Director for a full two-year term.
 6. The YEF Constitution Clause 21.5 notes the Term of Appointment as, each elected Director will hold office from the end of the Annual General Meeting at which he or she was elected until the end of the second Annual General Meeting after the election, when he or she will retire but will be eligible for re-election. Council appointed Councillor Stone and Councillor Nguyen in 2021 as it delegates who will thus continue through to 2023.
 7. An amendment to the YEF Constitution in 2017, enables the Board to appoint additional Directors (up to the maximum number referenced in the Constitution, i.e.10) for a period up to the next Annual General Meeting (i.e. up to 12 months).
 8. Of the 10 possible Director positions, 2 will require to be re-appointed at the upcoming AGM, being David Anstee and Melinda Scaringi, both who have indicated their desire to be re-appointed.
 9. Departing Directors include - Stephen Thomson, who left during the 2022 year and Melissa Cutler who will not be re-nominating at the end of her term of appointment – 2022.
-

10. Following the appointments as recommended below, there will be seven Directors.

YEF Annual General Meeting: Appointment of Chair

11. As noted above, Yarra City Council is the sole shareholder (funding member) of the YEF and in accordance with the YEF Constitution is responsible to appoint the Chair from amongst the elected Directors at each AGM.
12. There is only one nomination to the role of Chair, that of David Anstee (the current Chair).
13. It is noted that the YEF Board itself can elect a Deputy Chair in the absence of the Chair at any meeting.

Discussion

14. As noted above, there is currently one vacant position on the Board for which YEF is presently seeking expressions of interest.

Options

15. That Council determine on the recommendation below.

Community and stakeholder engagement

16. Not relevant to his report.

Policy analysis

Alignment to Community Vision and Council Plan

17. The successful achievement of the Council's Climate Emergency, energy reduction and transfer to clean energy goals (renewable, conservation, reduction) by YEF is an important component of the Council's various environmental strategies. As the YEF Board Directors are requested to be "hands-on" in terms of contributing their expertise to operations and of achieving the Board's goals, it is therefore essential that in selecting new Board members it is critical to seek potential Directors who have the range of key required skill sets.

Climate emergency and sustainability implications

18. The ongoing work of the YEF will be a critical element in supporting the Council to achieve its environmental sustainability goals.

Community and social implications

19. Similar to notes above, there are social implications in pursuing a more environmentally sustainable energy source and critically, in marketing that to business and the wider community in a manner which will encourage take up of the YEF programs and opportunities.

Economic development implications

20. Specific economic implications include the desirability of at least one Director having broad experience in economics and in particular the economic and financial implications relating to energy sources, consumption, availability and conservation.

Human rights and gender equality implications

21. Not applicable to this report.

Operational analysis

Financial and resource impacts

22. There are no specific financial implications relating to the appointment of the Directors.

Legal Implications

23. The process of nominating and appointing both Directors and the Chairperson is clearly set out in the YEF Constitution.

Conclusion

24. That Council:
- (a) note that Councillors Stone and Nguyen will continue as its Councillor Director Members for 2023;
 - (b) approves the re-appointment of David Anstee and Melinda Scaringi for a further two year period; and
 - (c) approves the appointment of David Anstee as Chair.

RECOMMENDATION

1. That in the matter of the Yarra Energy Foundation (YEF) Annual General Meeting and Council's obligations (*as the sole shareholder under the YEF Constitution*) to appoint Directors for a two year term and the incoming Chair at the Annual General Meeting, Council:
- (a) note the report;
 - (b) note that Councillors Stone and Nguyen will continue as its Councillor Director Members until the AGM 2023;
 - (c) approves the re-appointment of David Anstee and Melinda Scaringi for a further two-year term;
 - (d) approves the appointment of David Anstee as Board Chair; and
 - (e) authorises the Chief Executive Officer to sign such nomination documents on behalf of Council, as is required under the Constitution of the YEF and the *Corporation Act 2001*, to bring about the nomination of the Directors.

Attachments

There are no attachments for this report.

9.1 Notice of Motion No. 8 of 2022 - Yarra Leisure fees and charges off peak rate trial

Reference	D22/293643
Author	Rhys Thomas - Senior Governance Advisor
Authoriser	Group Manager Chief Executive's Office

I, Councillor Amanda Stone, hereby give notice that it is my intention to move the following motion at the Ordinary Meeting of Council to be held on 15 November 2022:

1. *That a report be presented to Council in February 2023, which;*
 - (a) *presents options for the introduction of an additional fee category for casual swim or gym use at Yarra Leisure Centres, as a trial, to be offered during off peak periods, and which is available to the over 60 age group;*
 - (b) *presents options for a fee which is less than full fee but more than a concession fee, and defines off peak periods; and*
 - (c) *also reports on the programs and services offered by Yarra Leisure to support and encourage Yarra's older residents to remain physically active into older age, and the opportunities and plans to communicate these more widely.*

RECOMMENDATION

1. That a report be presented to Council in February 2023, which;
 - (a) presents options for the introduction of an additional fee category for casual swim or gym use at Yarra Leisure Centres, as a trial, to be offered during off peak periods, and which is available to the over 60 age group;
 - (b) presents options for a fee which is less than full fee but more than a concession fee, and defines off peak periods; and
 - (c) also reports on the programs and services offered by Yarra Leisure to support and encourage Yarra's older residents to remain physically active into older age, and the opportunities and plans to communicate these more widely.

Attachments

There are no attachments for this report.