



# Agenda

## Council Meeting

7.00pm, Tuesday 6 December 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 Claudia Nguyen   | Mayor        |
| • Cr Edward Crossland | Deputy Mayor |
| • Cr Stephen Jolly    | Councillor   |
| • Cr Herschel Landes  | Councillor   |
| • Cr Anab Mohamud     | Councillor   |
| • Cr Bridgid O’Brien  | Councillor   |
| • Cr Sophie Wade      | Councillor   |

#### Council officers

- |                    |  |
|--------------------|--|
| • Sue Wilkinson    | Chief Executive Officer                  |
| • Brooke Colbert   | Group Manager Advocacy and Engagement    |
| • Malcolm Foard    | Director Community Wellbeing             |
| • 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                       |

#### Apology

- |                          |            |
|--------------------------|------------|
| • Cr Gabrielle de Vietri | Councillor |
| • Cr Amanda Stone        | Councillor |

## 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

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

##### RECOMMENDATION

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

Item

5.1 **C1621 Tender Report Cambridge St Reserve Upgrade and Expansion**

This item is to be considered in closed session to allow consideration of private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets or if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

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

5.2 **C1560/1 – Request variation to Data#3 contract for Microsoft Services and Licensing**

This item is to be considered in closed session to allow consideration of private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets or if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

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

5.3 **Chief Executive Officer Performance Plan 2022/2023**

This item is to be considered in closed session to allow consideration of personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs

These grounds are applicable because the report contains information about the employment of the Chief Executive Officer.

## 6. Confirmation of minutes

### **RECOMMENDATION**

That the minutes of the Council Meeting held on Tuesday 15 November 2022 be confirmed.

That the minutes of the Council Meeting held on Tuesday 22 November 2022 be confirmed.

That the minutes of the Council Meeting held on Monday 28 November 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	Draft Amendment C271 - permanent DDOs for Fitzroy and Collingwood	10	27	Joerg Langeloh – Project and Policy Coordinator
8.2	Crown Allotment at 165 Napier Street Fitzroy: Strategic considerations for future utilisation for adventure playground and neighbourhood house activities	29	41	Malcolm McCall – Manager Social Strategy and Community Development
8.3	Clifton Hill to North Abbotsford Corridor Road Safety Plan	44	57	Peter Moran – Manager Infrastructure, Traffic and Civil Engineering
8.4	Proposal to Declare Land Abutting Sandeman Place as Public Highway	58	60	Chris Leivers - Director City Works and Assets
8.5	Proposed Discontinuance of Road abutting 79 Balmain Street, Cremorne	61	64	Bill Graham – Coordinator Valuations
8.6	Council Meeting Schedule 2023	65	67	Rhys Thomas - Senior Governance Advisor
8.7	Appointment of Authorised Officers under the Planning and Environment Act 1987	68	69	Rhys Thomas - Senior Governance Advisor



## **9. Notices of motion**

Nil

## **10. Petitions and joint letters**

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

## **11. Questions without notice**

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

## **12. Delegate's reports**

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

## **13. General business**

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

## **14. Urgent business**

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

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## 8.1 Draft Amendment C271 - permanent DDOs for Fitzroy and Collingwood

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### Executive Summary

#### Purpose

This report informs Councillors about the first phase of community engagement and the recommended process and content of draft Amendment C271. The amendment proposes permanent Design and Development Overlays and two new heritage overlays for the activity centre areas and nearby mixed-use zones in Fitzroy and Collingwood.

#### Key Issues

The approved interim Design and Development Overlays (DDOs) that apply to parts of the activity centre areas in Fitzroy and Collingwood are due to expire in March and April 2023. A permanent amendment process needs to be commenced to manage growth in the area and secure the extension of the expiry date whilst permanent provisions are being considered.

#### Financial Implications

The costs associated with the exhibition of the amendment would be absorbed by the strategic planning budget.

Legal costs with regard to the preparation and representation before, during and after the Standing Advisory Committee hearing would be subject to the Governance budget and span across this and the coming financial year.

#### PROPOSAL

That Council notes the community engagement findings and supports the commencement of draft Amendment C271 which would seek to:

- (a) Introduce permanent Design and Development Overlay (DDOs) Schedules 29 - 40 to land within the Major and Neighbourhood Activity Centres and along areas of Alexandra and Victoria Parades in Fitzroy and Collingwood and to replace the current interim DDOs and permanent DDO Schedules 2, 10 and 13 where they would overlap with the new DDO schedules;
- (b) Introduce two new Heritage Overlays in Collingwood and Clifton Hill;
- (c) Amend minor zoning errors in various locations; and
- (d) Introduce local policy updates in Clause 11.03-1L Activity Centres.

## 8.1 Draft Amendment C271 - permanent DDOs for Fitzroy and Collingwood

<b>Reference</b>	D22/311820
<b>Author</b>	Joerg Langeloh - Project and Policy Coordinator
<b>Authoriser</b>	Director Planning and Place Making

### Purpose

1. This report informs Councillors about the first phase of community engagement and the recommended process and content of a draft Amendment C271. The Amendment would seek to:
  - (a) Introduce permanent Design and Development Overlay (DDOs) Schedules 29 - 40 to land within the Major and Neighbourhood Activity Centres and along areas of Alexandra and Victoria Parades in Fitzroy and Collingwood and to replace the current interim DDOs and permanent DDO Schedules 2, 10 and 13 where they would overlap with the new DDO schedules;
  - (b) Introduce two new Heritage Overlays in Collingwood and Clifton Hill;
  - (c) Amend minor zoning errors in various locations; and
  - (d) Introduce local policy updates in Clause 11.03-1L Activity Centres.

### Critical analysis

#### History and background

2. Throughout 2019 and 2020, comprehensive strategic background work was prepared to inform and justify interim DDOs for the activity centre areas within Fitzroy and Collingwood, plus Commercial 1 Zone and Mixed-Use Zone land along Alexandra and Victoria Parades.
3. The relevant strategic background reports that informed the interim DDO requests and continue to inform recommended draft Amendment C271 are:

**Table 1: Strategic Background Work that informs C271**

Report topic	Strategic Background Reports
Overarching background analysis	<ul style="list-style-type: none"> <li>• Brunswick and Smith Street Built Form Review – Background Analysis Report November 2019 – Hansen Partnership (<b>Attachment 1</b>)</li> </ul>
Detailed built form frameworks	<ul style="list-style-type: none"> <li>• Brunswick Street and Town Hall Built Form Framework November 2019 - Hansen Partnership in conjunction with GJM Heritage (<b>Attachment 2</b>)</li> <li>• Smith Street Built Form Framework November 2019 - Hansen Partnership in conjunction with GJM Heritage (<b>Attachment 3</b>)</li> <li>• Gertrude Street Built Form Framework November 2019 - Hansen Partnership in conjunction with GJM Heritage (<b>Attachment 4</b>)</li> <li>• Johnston Street Built Form Framework June 2019 - Hansen Partnership in conjunction with GJM Heritage (<b>Attachment 5</b>)</li> <li>• Fitzroy East Built Form Framework June 2019 - Hansen Partnership in conjunction with GJM Heritage (<b>Attachment 6</b>)</li> <li>• Alexandra Parade Built Form Framework December 2020 - Hansen Partnership in conjunction with GJM Heritage (<b>Attachment 7</b>)</li> </ul>

	<ul style="list-style-type: none"> <li>• Victoria Parade Built Form Framework December 2020 - Hansen Partnership in conjunction with GJM Heritage (<b>Attachment 8</b>)</li> <li>• Fitzroy West Built Form Framework December 2020 - Hansen Partnership in conjunction with GJM Heritage (<b>Attachment 9</b>)</li> </ul>
Heritage built form recommendations	<ul style="list-style-type: none"> <li>• Brunswick Street and Smith Street Built Form Review – Heritage Analysis and Recommendations November 2019 – GJM Heritage (<b>Attachment 10</b>)</li> <li>• Gertrude Street Built Form Review – Heritage Analysis and Recommendations December 2019 – GJM Heritage (<b>Attachment 11</b>)</li> <li>• Built Form Review: Alexandra Parade – Heritage Analysis and Recommendations November 2020 – GJM Heritage (<b>Attachment 12</b>)</li> <li>• Built Form Review: Victoria Parade – Heritage Analysis and Recommendations November 2020 – GJM Heritage (<b>Attachment 13</b>)</li> <li>• Built Form Review: Fitzroy West Mixed-Use Precinct – Heritage Analysis and Recommendations – November 2020 – GJM Heritage (<b>Attachment 14</b>)</li> </ul>
Transport reports	<ul style="list-style-type: none"> <li>• Traffic Engineering Assessment Brunswick Street and Smith Street Activity Centres, November 2019 – Traffix Group Pty Ltd (<b>Attachment 15</b>)</li> <li>• Traffic Engineering Assessment Brunswick Street and Smith Street Activity Centres – Extended Area, November 2020 – Traffix Group Pty Ltd (<b>Attachment 16</b>)</li> </ul>

4. Interim DDOs were adopted by Council for all of the activity centres within Fitzroy and Collingwood (except for the Collingwood South Mixed-Use Precinct which was addressed via Amendment C293) as part of the following amendments:
  - (a) C270 Fitzroy-Collingwood interim DDOs Stage 1;
  - (b) C288 Fitzroy-Collingwood interim DDOs Stage 2; and
  - (c) C297 interim HOs in locations of Collingwood and Clifton Hill.
5. The Minister for Planning approved seven of the 12 interim DDOs that Council requested. They are due to expire after 4 March 2023 (interim DDOs 30, 35, 36 and 37 applied through Amendment C272) and after 21 April 2023 (interim DDOs 38-40 applied through Amendment C288).
6. The current interim DDOs in the Planning Scheme are:
  - (a) DDO30 Smith Street Shops;
  - (b) DDO35 Johnston Street South;
  - (c) DDO36 Fitzroy East and Johnston Street North;
  - (d) DDO37 Smith Street North and South;
  - (e) DDO38 Alexandra Parade;
  - (f) DDO39 Victoria Parade; and
  - (g) DDO40 Fitzroy West.
7. It is important that Council commences the permanent amendment process so a request to extend the current interims can be secured and areas without current interim DDOs receive local built form and design guidance as soon as possible.

Discussion

Community Engagement Phase 1

8. To help inform the recommended permanent DDOs, a first phase of informal community engagement was undertaken. Its purpose was to raise awareness of the process and content of the adopted interim DDOs as well as to gain preliminary insights into people’s feedback to refine the content of the DDOs.
9. Formal and additional direct notification would occur during the formal exhibition of C271, should Council wish to progress the amendment.
10. An overview of engagement efforts and results is at **Attachment 17**. Attachment 17 includes a comprehensive list of the consultation methods that were undertaken, including the use of panels to obtain feedback from harder to reach groups and the use of Council’s bi-cultural liaison officers.
11. The consultation attracted a high level of engagement from a range of community members with over 560 submissions received. The majority of these were survey responses from the project Yoursay Yarra website, approx. 350.
12. The survey responses show that there is general support to put DDOs in place to better guide new development. On balance, the approach to apply lower heights and more mandatory controls to areas of higher heritage consistency and residential interface sensitivity also appears to have general support.
13. Table 2 shows the differences and similarities between different demographic groups:

**Table 2: Response to survey question - ‘Level of support for DDO approach generally’**

	Whole survey	All Aboriginal and Torres Strait Islander participants*	All young participants (<35yo)*	All renter participants (public and private)*	All CALD participants*	All other participants
No. of responses	431	6	150	138	33	229
Positive	42% (181)	50% (3)	55% (83)	57% (78)	52% (17)	31% (75)
Neutral	25% (106)	17% (1)	27% (41)	28% (39)	24 % (8)	22% (51)
Negative	33% (144)	33% (2)	18% (26)	15% (21)	24 % (8)	45% (103)

\* NB – Some participants are in one or more categories e.g. a member of the CALD community who rents.

14. From individual comments in the survey responses as well as many email submissions it was evident that many community members assumed that the height range provided in the short overview summaries of the online mapping tool was assumed to be applied across an entire DDO area.
15. Conversations at on-street pop-up sessions confirmed that many were not aware that the summary was a general overview only and that heights in each DDO area are proposed to be more specific.
16. There was strong support for mandatory requirements, design requirements to achieve pedestrian oriented outcomes, overshadowing requirements for opposite footpaths and bulk separation towards the rear.
17. Higher levels of development (i.e. above 6 or 7 storeys) were less supported. Particular areas of interest were:

- (a) DDO30 Smith Street (northern and southern areas towards DDO37);
  - (b) DDO36 Fitzroy East and Johnston Street North;
  - (c) DDO37 Smith Street North and South; and
  - (d) DDO40 Fitzroy West.
18. The most common key issues raised can be summarised as follows:
- (a) The impact of development on heritage streetscapes and loss of heritage;
  - (b) Overshadowing concerns for public spaces / street amenity concerns;
  - (c) Amenity concerns for private residences;
  - (d) Loss of individual shops and character of the area;
  - (e) Lack of landscaping for public and private land;
  - (f) Traffic increase / congestion and pressure on car parking; and
  - (g) Construction noise and traffic.
19. All feedback has been acknowledged and analysed. Participants were added to a contact register for the future amendment process.
20. The feedback suggested a wide range of changes to the DDOs, some conflicting e.g. requests for lowering heights to between 2 storeys to 6 storeys. It is also noted some issues raised cannot be addressed through a DDO or the planning scheme.
21. To view the summary of submissions, refer to **Attachment 18**. For responses to key issues, refer to **Attachment 19**.
22. Changes to the proposed DDOs as a result of feedback are:
- (a) Addition of a requirement to ensure commercial uses maintain the rear lane or side street access to ensure viable and functional floor layouts;
  - (b) New requirements to achieve adaptable floor layouts to ensure new development can accommodate a variety uses over time;
  - (c) Refinement of the discretionary height requirements so that no additional overshadowing also applies to public spaces (not just secluded private open spaces);
  - (d) Height reductions from 5 to 4 storeys along both sides of Brunswick Street (DDO29) between Cecil and Leicester Streets, excluding non-contributory sites between Westgarth and Cecil Streets (west side only, between 421-431 Brunswick Street, Fitzroy);
  - (e) Height reductions from 4 to 3 storeys along Gertrude Street (DDO31) for sites 169-175 Gertrude Street, Fitzroy (north side, east of Little George Street);
  - (f) DDO36 Johnston Street North and Fitzroy East:
    - (i) Height reductions from 4 to 3 storeys to a non-contributory property in Fitzroy East (430 George Street);
    - (ii) Height reduction from 4 to 3 storeys to a heritage property (340 Napier Street);
    - (iii) Making maximum heights mandatory for heritage terraces / cottages shown at 3 storeys (rather than preferred);
  - (g) Changes to the street wall height requirement where next to heritage buildings to say 'no higher than' instead of 'to match';
  - (h) New requirements to support integrated landscaping outcomes;
  - (i) Updated maps to provide more clarity around mandatory and discretionary (preferred) heights; and

- (j) A new decision guideline requiring developments to consider the interface with existing low-scale residential properties, including overshadowing.

### Heritage Recommendations

- 23. As part of Amendment C297 Council adopted two interim heritage overlays (HOs) to address gaps:
  - (a) for Gasometer Hotel (see Figure 1); and
  - (b) shops between Islington and Hoddle Street fronting Victoria Parade (see Figure 2).

**Figure 1: Gasometer Hotel**



**Figure 2: Shop/residences, 205-219 Victoria Parade, Collingwood**



- 24. The interim HO request was not supported by the Minister, mainly due to the lack of immediate development pressure/demolition requests.
- 25. Officers recommend pursuing these as permanent HOs in C271. See **Attachment 20** for the Statements of Significance and citations.
- 26. As undertaken in Amendment C293, officers consulted with the independent heritage expert to determine whether updates to the previous heritage built form recommendations were needed.
- 27. The heritage expert provided the following updates:
  - (a) Alignment with the approach and findings from more recent scheme amendments and planning permit applications to create a stronger case for the relevant DDO requirements; and
  - (b) Responses to feedback requesting changes.
- 28. The changes to the DDOs from the supplementary heritage advice (see **Attachment 21**) so far are:
  - (a) DDO29 – Brunswick Street Shops – Apply an 8m upper-level setback to the four corner properties at the Johnston / Brunswick Street intersection;
  - (b) DDO33 – Brunswick Street Grand Residential - update requirements to Change language to allow front setback to reflect adjacent heritage building/s;
  - (c) DDO35 – Johnston Street South and Victoria Street – Apply a mandatory 6m upper-level setback to north side of Victoria Street and preferred 6m setback on side streets;

- (d) DDO36 – Johnston Street North and Fitzroy East - Apply a mandatory 6m upper-level setback to heritage buildings;
- (e) DDO38 – Alexandra Parade:
  - (i) Apply 11m (3 storeys) preferred maximum height (currently 14.4m - 4 storeys) to: 47 & 49 Alexandra Parade and 347, 347a & 351 Wellington Street, Collingwood (HO321 – Gold Street Precinct), 1A Council Street, Clifton Hill (HO317 – Clifton Hill Western Precinct);
  - (ii) Apply a 9m preferred maximum height (currently 14.4m - 4 storeys) to 20 Reeves Street, Clifton Hill (HO317 – Clifton Hill Western Precinct);
  - (iii) Apply a 14m preferred maximum height (currently 17.6m - 5 storeys) to 484 Smith Street, Collingwood (Gasometer Hotel, no HO currently applies – a HO proposed as part of C271);
- (f) DDO39 – Victoria Parade:
  - (i) Apply a preferred 6m upper-level setback to side streets (currently 3m setback to side streets) to protect the prominence of return facades on corner buildings along the boulevard; and
  - (ii) Apply a 17.6m preferred maximum height (currently 24m - 7 storeys) to 151 Victoria Parade, Fitzroy (corner with George Street); and
- (g) DDO40 – Fitzroy West – Apply a preferred 6m upper-level setback above the street frontage of Rose Street, Fitzroy Street, Spring Street (where north of Kerr Street) and Henry Street (currently 3m setback to these streets).

#### Recommended DDOs for Fitzroy and Collingwood Activity Centres and Parades

- 29. The basis for the recommended permanent DDOs are the interim DDOs from C270 and C288 as adopted by Council.
- 30. Changes made to the adopted interim DDOs can generally be described as:
  - (a) Refined wording to include learnings from other recent amendments and increase consistency;
  - (b) Changes to heights and setbacks and balance the mandatory and discretionary requirements in line with updated heritage advice (as discussed under *Heritage Recommendations* above); and
  - (c) Refined and additional requirements as a result of community feedback (as discussed under *Community Engagement Phase 1* above).

#### Approach

- 31. A more holistic approach was taken to guide potential built form changes across the network of activity centres in Fitzroy and Collingwood. This allowed the recognition of commonalities and the differences across the precinct areas.
- 32. It means that DDOs in areas of higher heritage sensitivities generally require lower street wall heights, larger upper-level setbacks and lower heights, whereas areas of lesser sensitivities allow for more flexibility.
- 33. DDOS that would apply to areas with higher heritage sensitivities justify mandatory requirements.
- 34. All DDOs include clear requirements for minimising amenity impacts upon sensitive residential interfaces outside of a DDO, such as mandatory setbacks for upper levels of new development to be contained within a 45-degree angle.
- 35. Objectives and design requirements of each DDO schedule have been tailored to address the unique built form typologies, heritage and character of that precinct.



- 36. The approach follows the directions of the new planning policy framework as adopted in C269 and is supported by findings from recent planning panel / committee hearings.
- 37. Map 1 provides an overview of the recommended DDO areas:

**Map 1: Fitzroy and Collingwood DDOs**



**Mandatory Controls**

- 38. Guidance of the application of mandatory controls is provided in the State Government Planning Practice Note 59 and 60. Planning Practice Note 60 details that mandatory height and setback controls would only be considered in ‘exceptional circumstances’, where they are absolutely necessary to achieve the built form objectives or outcome identified within a comprehensive built form analysis.
- 39. The application of mandatory controls has been carefully considered and applied selectively and are not proposed to apply across all precincts and/or to all requirements within the proposed DDOs.

**Key metrics**

- 40. Table 3 below provides an overview of some built form requirements in the recommended DDOs. They need to be read in conjunction with the other built form and design requirements of all recommended DDOs as outlined further below and in **Attachment 22**.

**Table 3: Overview of Key Built Form Requirements**

DDO area	Street wall height	Upper-level setbacks	Overall building heights
<b>DDO29 Brunswick Street Shops</b>	Generally, between 2 to 3 storeys / 8 to 11.2m	8 metres from Brunswick and Johnston Streets – Mandatory	Generally, between 3 to 6 storeys / 11.2 to 20.8 metres – Mandatory Note: Majority of properties is

DDO area	Street wall height	Upper-level setbacks	Overall building heights
	– Mandatory	6 metres to side streets – Preferred	between 3-4 storeys, with 6 storeys being on larger sites
<b>DDO30 Smith Street Shops</b>	Generally, between 2 to 3 storeys / 8 to 11.2m – Mandatory	8 metres from Smith Street – Mandatory 6 metres from Johnston Street – Mandatory 6 metres to side streets – Preferred	Generally, between 3 to 8 storeys / 11.2 to 27.2 metres – Mandatory Note: Taller forms above 6 storeys are located around the former department stores and where properties are of greater depth
<b>DDO31 Gertrude Street Shops</b>	Generally, between 2 to 3 storeys / 8 to 11.2m – Mandatory	8 metres from Gertrude Street (east of Brunswick Street) – Mandatory 10 metres from Gertrude Street (between Fitzroy and Brunswick Street) – Mandatory 15 metres from Gertrude Street (between 128-134 Gertrude Street) – Mandatory 6 metres to side streets – Preferred	Generally, between 3 to 4 storeys / 11.2 to 14.4 metres – Mandatory Note: 4 storey heights are on deep properties where visibility of the 4 <sup>th</sup> level is very minimal or placed behind the existing heritage form, including 128-134, 158-164 and 169-171 Gertrude Street
<b>DDO32 Johnston Street West</b>	Generally, between 2 to 4 storeys / 8 to 14.4m – Mandatory	6 metres from Johnston and Nicholson Street – Mandatory 3 metres to side streets – Preferred	Generally, between 4 to 8 storeys / 14.4 to 27.2 metres – Mandatory
<b>DDO33 Brunswick Street Grand Residential</b>	Generally, between 2 to 3 storeys / 8 to 11.2m – Mandatory	8 metres from Brunswick Street (east side) – Mandatory Set back behind the existing heritage building on Brunswick Street (west side) – Mandatory	Generally, between 3 to 4 storeys / 11.2 to 14.4 metres – Mandatory Note: VHR properties identified as limited opportunity.
<b>DDO34 Fitzroy Town Hall and Back Blocks</b>	Generally, 2 to 4 storeys / 8 to 14.4m – Mandatory	6 metres from primary street frontages – Preferred 8 metres from King William	Generally, between 3 to 6 storeys / 11.2 to 20.8 metres – Preferred with conditions Note: Heights in the Town Hall

DDO area	Street wall height	Upper-level setbacks	Overall building heights
		<p>and Fitzroy Street</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul> <p>3 metres to side streets</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul>	<p>precinct are mainly 3-4 storeys, with 6 storeys being a recent completed development</p> <p>Heights along Fitzroy Street are 6 storeys due to the large allotments</p>
<p><b>DDO35</b> <b>Johnston Street South and Victoria Street</b></p>	<p>Generally, 3 to 4 storeys / 11.2 to 14.4m</p> <ul style="list-style-type: none"> <li>– Mandatory</li> </ul>	<p>6 metres from Johnston Street and Victoria Street</p> <ul style="list-style-type: none"> <li>– Mandatory</li> </ul> <p>6 metres from Chapel Street and side streets</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul>	<p>Generally between 6 to 8 storeys / 20.8 to 27.2 metres (along Victoria Street)</p> <ul style="list-style-type: none"> <li>– Mandatory</li> </ul> <p>Note: 8 storey heights acknowledge adjacent taller heritage form and existing development in similar context with no heritage fabric</p> <p>Generally, between 3 to 6 storeys / 11.2 to 20.8 metres (south side of Johnston Street between Brunswick and Smith Streets)</p> <ul style="list-style-type: none"> <li>– Mandatory</li> </ul>
<p><b>DDO36</b> <b>Fitzroy East and Johnston Street North</b></p>	<p>Generally, 3 to 4 storeys / 11.2 to 14.4m</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul>	<p>10 metres from Argyle Street</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul> <p>6 metres from other streets</p> <ul style="list-style-type: none"> <li>– Preferred (where not within the heritage overlay)</li> </ul>	<p>Generally, between 6 to 9 storeys / 20.8 to 30.4 metres (between Johnston and Argyle Streets)</p> <ul style="list-style-type: none"> <li>– Preferred with conditions</li> </ul> <p>Note: This is a high change area as identified in C269</p> <p>Generally, between 3 to 7 storeys / 11.2 to 24 metres (along back streets)</p> <ul style="list-style-type: none"> <li>– Preferred with conditions</li> </ul> <p>Note: Heights generally transition down towards NRZ interface.</p> <p>Properties with heritage terraces and cottages 3 storeys / 11.2m</p> <ul style="list-style-type: none"> <li>– Mandatory</li> </ul>
<p><b>DDO37</b> <b>Smith Street North and South</b></p>	<p>Generally, 2 to 3 storeys / 8 to 11.2m</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul>	<p>8 metres from Smith Street (heritage overlay applies)</p> <ul style="list-style-type: none"> <li>– Mandatory</li> </ul> <p>8 metres from Smith Street (no heritage overlay applies)</p>	<p>Generally, between 6 to 10 storeys / 20.8 to 33.6 metres (along north of Smith Street)</p> <ul style="list-style-type: none"> <li>– Preferred with conditions</li> </ul> <p>Note: 10 and 9 storeys acknowledge existing</p>

DDO area	Street wall height	Upper-level setbacks	Overall building heights
		<ul style="list-style-type: none"> <li>– Preferred</li> <li>6 metres to side streets</li> <li>– Preferred</li> </ul>	<p>developments</p> <p>Generally, between 4 to 7 storeys / 14.4 to 24 metres (along south of Smith Street)</p> <p>– Preferred with conditions</p>
<p><b>DDO38 Alexandra Parade</b></p>	<p>Generally, 2 to 4 storeys / 8 to 14.4m</p> <p>– Preferred</p>	<p>6 metres from street (heritage overlay applies)</p> <ul style="list-style-type: none"> <li>– Mandatory</li> </ul> <p>8 metres from Smith Street</p> <ul style="list-style-type: none"> <li>– Mandatory where heritage overlay applies</li> <li>– Preferred where no heritage overlay applies</li> </ul> <p>6 metres from certain streets (northern side of Alexandra Parade, along Cecil Street, Council Street, George Street, Gore Street) and where next to the heritage overlay</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul> <p>Visibility towards Noone Street to be limited</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul> <p>3 metres from other side streets (unless specified)</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul>	<p>Generally, between 4 to 7 storeys / 14.4 to 24 metres (near Smith Street)</p> <ul style="list-style-type: none"> <li>– Preferred with conditions</li> </ul> <p>Generally, between 3 to 7 storeys / 11.2 to 24 metres (near Hoddle Street)</p> <ul style="list-style-type: none"> <li>– Preferred with conditions</li> </ul> <p>Note: Also refer to height reductions recommended by GJM in paragraph 28(d) above.</p>
<p><b>DDO39 Victoria Parade</b></p>	<p>Generally, 2 to 5 storeys / 8 to 17.6m</p> <p>– Preferred</p>	<p>6 metres from Victoria Parade and Wellington Street</p> <ul style="list-style-type: none"> <li>– Mandatory (within or adjacent to heritage overlay sites)</li> <li>– Preferred (not within or adjacent to the heritage overlay)</li> </ul> <p>8 metres to Smith Street</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul> <p>6 metres to side streets (within the heritage overlay)</p> <ul style="list-style-type: none"> <li>– Preferred</li> </ul> <p>3 metres to other sites along side streets</p> <p>Note: Upper levels for</p>	<p>Generally, between 4 to 7 storeys / 14.4 to 24 metres</p> <ul style="list-style-type: none"> <li>– Preferred with conditions</li> </ul> <p>3 large sites, between 10-12 storeys / 33.6 to 40 metres</p> <ul style="list-style-type: none"> <li>– Preferred with conditions</li> </ul>

DDO area	Street wall height	Upper-level setbacks	Overall building heights
		development greater than 10 storeys should be further set back in order to be visually recessive and achieve limited visibility from the surrounding public realm.	
<b>DDO40 Fitzroy West</b>	Generally, 2 to 3 storeys / 8 to 11.2m – Preferred	6 metres at the primary street frontage for all heritage buildings – Mandatory 6 metres at the secondary street frontage for heritage buildings – Preferred 6 metres for primary frontages for non-contributory sites – Preferred 3 metres for secondary frontages for non-contributory sites – Preferred	Generally, between 3 to 6 storeys / 11.2 to 20.8 metres (unless hatched) 2 large sites at 8 storeys / 27.2 metres – Preferred with conditions Properties with heritage terraces and cottages 3 storeys / 11.2m – Mandatory

41. Map 2 provides a high-level overview of the height ranges within the proposed DDOs. It shows that higher heights of 8 storeys or more are generally in higher change areas as per the adopted change framework in C269yara.

**Map 2: Proposed heights - Fitzroy and Collingwood DDOs**



42. Table 4 provides a summary of other requirements in the recommended DDOs.

**Table 4: Other general requirements**

Built form	Requirement
<b>Front setbacks next to heritage buildings</b> (as applicable)	New development should match the front setback for a distance of 6m.
<b>Street wall height of new development next to heritage buildings</b>	New street walls must not be higher than the adjoining parapet of the heritage building for a length of 6 metres across the frontage.
<b>Upper-level setbacks</b>	In addition to the general requirements (e.g. for a 8 or 6 metre upper level setback), an increased upper-level setback may be required to retain the principal roof form, chimneys and perception of the three-dimensional form.
<b>Overall building heights for discretionary heights</b>	New development that proposes to exceed preferred maximum building heights must only be approved if all additional requirements are met, including a BESS score of 70%, no additional overshadowing to secluded private open space and public realm or space, increase in private and communal space and greater setbacks for the higher elements.
<b>Overshadowing of opposite footpaths</b>	New development must not overshadow these spaces at the equinox between 10am-2pm to protect limited and highly valued public realm.

<p><b>Rear interface requirements</b></p>	<p>To accommodate different floor to floor heights and to recognise the many heritage buildings, the boundary wall height of 8m (11.2m where next to MUZ) is proposed to be discretionary.</p> <p>A mandatory 45-degree angle for any levels above the rear boundary wall height would be included to minimise impact from bulk and overshadowing.</p>
<p><b>Building separation requirements</b></p>	<p>Minimum distances of 3m and 4.5m are required for non-habitable room and habitable room windows respectively. Additional setbacks would be required for taller buildings.</p>
<p><b>Other design requirements</b></p>	<p>The DDOs contain many design requirements to achieve fine-grain shop fronts where needed, pedestrian-oriented outcomes, adaptable floor layouts and maintaining rear/site street access for commercial uses. They also include guidance in relation to façade composition, materials and to avoid blank walls.</p>

### Proposed DDOs

43. The changes described above have been applied to the Council adopted interim DDOs 29 to 40 to form the recommended permanent DDOs for Amendment C271.

### Zoning Anomalies

44. Officers undertook a review to correct zoning errors where two zones apply to the same property within the DDOs.
45. The errors are likely to have occurred when the new residential zones were applied to the planning scheme. Generally, officers recommend the application of the zone that already applies the front part of the property.
46. Mainly, this means applying the C1Z across the entire property where smaller sections to the rear are currently zoned N1Z1.
47. One property at 245 Gold Street is recommended to be rezoned from C1Z to NRZ1. This is a follow up from Amendment C231 - Queens Parade. It was raised in submissions and was supported by Council at the time but could not form part of the amendment. The owner supports the change.
48. See **Attachment 23** for the tables showing the recommended anomaly corrections. It is intended these will form part of Draft amendment C271.

### Local Policy Update Clause 11.03-1L Activity Centres

49. A further aspect of the draft amendment is to update local policy.
50. Updated policy at Clause 11.03-1L Activity Centres under the Brunswick Street, Smith Street, Gertrude Street and Johnston Street subheadings includes strategies to reinforce expectations around use and development in the Major and Neighbourhood Activity Centres (see **Attachment 24**). The updates are informed by the built form framework.
51. Should the new planning policy framework as adopted in Amendment C269 not be approved by the time draft Amendment C271 is to be exhibited, the proposed changes to Clause 11.03-1L would be located as new policy within the current Clause 21.12 Local Areas.

### Next steps

52. It is proposed to recommend Council request consent from the Minister for Planning to prepare and exhibit draft Amendment C271 (see **Attachment 25** for other formal amendment documents) as per Terms of Reference of the SAC, appointed under Part 7, section 151 of the *Planning and Environment Act 1987*.

### Extension of Interim DDOs

53. An extension of the expiry date for the interim controls for 12 months is required to ensure appropriate and orderly planning while permanent provisions are being considered for inclusion into the Yarra Planning Scheme (via due process).
54. It is proposed that Council request the Minister for Planning extend the interim provisions through a Ministerial amendment under section 20(4) of the *Planning and Environment Act 1987* (the Act).

### Options

55. With regards to pursuing permanent built form provisions there are two options for Council:
  - (a) request consent from the Minister for Planning to prepare and exhibit draft Amendment C271 as per Terms of Reference of the SAC; or
  - (b) request 'authorisation' from the Minister for Planning so that Council could commence the 'usual' amendment process for Amendment C271. This would also be assessed by a Panel along that pathway, similar to the SAC amendment process.
56. Based on previous experience with Amendments C291 and C293, it is recommended Council continue to utilise the SAC and progress the amendment via this process.

### Community and stakeholder engagement

57. The adopted interim DDOs for Fitzroy and Collingwood as subject to the first phase of engagement have been publicly accessible since the Council Meetings of the 17 December 2019 and 30 March 2021.
58. The informal engagement phase to refine the interim DDOs and inform permanent DDOs for Council has been completed. A total of 560 feedback responses were received. A detailed overview is provided in Community Engagement Phase 1 and in Attachment 1.
59. Officers also sought the view of internal Council units:
  - (a) Urban design;
  - (b) Open space planning and design;
  - (c) Economic development;
  - (d) Statutory planning;
  - (e) Strategic transport;
  - (f) Traffic engineering;
  - (g) Civil engineering; and
  - (h) Construction management.
60. Refinements on wording and some additional requirements from Statutory Planning, Civil Engineering, Sustainable Transport, Urban Design and Open Space Planning and Design to clarify wording/desired outcome or a measure.
61. All of Council's advisory committee were notified via the relevant contact officers with an offer to meet.
62. The Heritage Advisory Committee has provided initial feedback and advised:
  - (a) 8 metre upper-level setbacks should be increased to 10 metres;
  - (b) Heights should be reduced; and
  - (c) More mandatory requirements should be applied.



## Policy analysis

### Alignment to Community Vision and Council Plan

63. The draft Amendment supports the following themes in the Yarra 2036 Community Vision:
  - (a) Priority 8.1 – Growing Sustainably – Advocate for development and planning design that shaped by and meets our community’s future needs; and
  - (b) Priority 8.2 – Growing Sustainably – Keep our heritage visible while we encourage innovative and sustainable growth.
64. The draft Amendment supports the following strategies in the Council Plan 2021-2025:
  - (a) Strategic Objective 3 – Local economy – ‘Manage access, safety and amenity to enhance people’s experience when visiting Yarra’; and
  - (b) Strategic Objective 4 – Place and nature – ‘Protect, promote and maintain our unique heritage and ensure development is sustainable’.

### Climate emergency and sustainability implications

65. Improved built form provisions would help facilitate sustainable development in locations with good access to employment, public transport and other amenities.
66. Policy and provisions elsewhere in the Yarra Planning Scheme respond to the climate emergency, namely the Planning Policy Framework and Council’s Environmentally Sustainable Design Policy at Clause 22.17 and Clause 15.02-1L Environmentally Sustainable Development (ESD) in the adopted Local Policy in Amendment C269.

### Community and social implications

67. There are no adverse community or social implications in preparing permanent built form provisions for Major and Neighbourhood Activity Centres.
68. Improved built form provisions would help provide clarity around the anticipated future development of the centre and commercial areas.

### Economic development implications

69. There are no economic development implications in preparing permanent built form provisions for the centre and surrounding area.
70. An amendment may aid in providing further stimulus to the retail precincts. The proposed DDOs include design requirements for new development to assist the functionality of smaller commercial spaces.

### Human rights and gender equality implications

71. There are no known human rights implications for requesting the Minister for Planning to progress a permanent DDO and HO controls.

## Operational analysis

### Financial and resource impacts

72. The costs associated with preparing strategic work to underpin permanent provisions has been considered within the strategic planning budget, mainly during the financial years of 19/20 and 20/21.
73. The costs associated with the exhibition of the amendment would be within the strategic planning budget.
74. Legal costs with regard to the preparation and representation before, during and after the Standing Advisory Committee hearing would be subject to the Governance budget and span across this and the coming financial year.

### Legal Implications

75. The draft amendment would be progressed in accordance with the provisions of the *Planning and Environment Act 1987* and *Yarra Activity Centres Standing Advisory Committee Terms of Reference* issued by the Minister for Planning on 10 June 2021.
76. Council must ensure natural justice to all parties and to maintain the integrity of the Amendment process per Section 32 of the Terms of Reference.

### Conclusion

77. Feedback from engagement showed support to introduce permanent DDOs and the need to minimise negative impacts from new development upon the public and private realm. Many raised concerns about development outcomes from recent development or were under the impression that the general height descriptions on the website applied to the entire DDO.
78. Whilst feedback requested lower heights particularly in Fitzroy East, Smith Street North, the northern end of Brunswick Street and for higher heights along Victoria Parade (between Napier and Smith Street), there was general support to introduce requirements to guide new development, particularly in areas of higher heritage and residential interface sensitivity.
79. The previously adopted interim DDOs (as in C270 and C288) have been refined based on internal review, community feedback and refined heritage advice.
80. Officers are of the view that the recommended permanent DDOs do achieve good outcomes by guiding different levels of change across the two suburbs. The DDOs provide a balance between guiding development that appropriately responds to heritage buildings and minimising negative impacts upon public and residential amenity.
81. The strategic background work that was prepared remains comprehensive and continues to provide a sound basis for the amendment.
82. The balance between built form measures and where mandatory requirements would be applied is strategically justified and is supported by the strategic background work.
83. It is important to commence an amendment to introduce permanent DDOs in the remaining activity centre and MUZ areas in Fitzroy and Collingwood to increase the likelihood of an extension to the current interim DDOs.
84. Officers are recommending Council request consent from the Minister for Planning to prepare and exhibit draft Amendment C271 as outlined in this report and to request an extension to the current interim DDOs whilst a permanent amendment is being progressed.

## RECOMMENDATION

1. That Council:
  - (a) notes the officer report and Attachments 1-25 introducing proposed permanent provisions for the activity centres and associated mixed-use zone areas in Fitzroy and Collingwood;
  - (b) Adopts the built form framework reports, heritage built form review and recommendation reports and traffic engineering assessment reports as background documents, as listed in Table 1 of this report and as in Attachments 1-16 and 21, as the general basis for Amendment C271 to the Yarra Planning Scheme;
  - (c) Adopts the amendment documentation for proposed Amendment C271, including proposed local planning policy in Clause 11.03-1L Activity Centres (or to be placed in Clause 21.12 Local Areas should C269 not be approved at the time of the exhibition), new permanent Design and Development Overlay Schedules 29 to 40, new Heritage Overlays 506 and 507 and their Statements of Significance with relevant updates to the Schedule to Clause 43.01 Heritage Overlay, and relevant updates to the Schedule to Clause 72.04 Incorporated Documents and 72.08 Background Documents at Attachments 20 and 22-25 as the basis for draft Amendment C271;
  - (d) Requests consent from the Minister for Planning to prepare and exhibit draft Amendment C271 as per the Terms of Reference for the Yarra Activity Centre Standing Advisory Committee, appointed under Section 151 of the Planning and Environment Act 1987;
  - (e) Determines that should the Minister for Planning decide not to provide consent under the Terms of Reference for the Yarra Activity Centre Standing Advisory Committee, Council as the Planning Authority, apply to the Minister for Planning (Minister) under section 8A of the Planning and Environment Act 1987, for 'authorisation to prepare and exhibit the Amendment';
  - (f) Requests the Minister for Planning to prepare, adopt and approve Amendment C313yara to the Yarra Planning Scheme, in accordance with the Minister's powers under sections 8(1)(b) and section 20(4) of the Planning and Environment Act 1987 to extend the expiry dates for the Design and Development Overlays Schedules 30, 35, 36, 37, 38, 39 and 40, on an interim basis for 12 months while the permanent provisions are formally considered;
  - (g) Authorises officers to consult with the Minister, in accordance with sections 8(1)(b) and 20(4) of the Act, to assist the Minister to prepare, adopt and approve the Amendment to extend the interim provisions; and
  - (h) Authorises the CEO to make any minor adjustments required to meet the intent of the resolution.

## Attachments

- 1 Attachment 1 - Brunswick and Smith Street Built Form Review – Background Analysis Report November 2019
- 2 Attachment 2 - Brunswick Street and Town Hall Built Form Framework November 2019
- 3 Attachment 3 - Smith Street Built Form Framework November 2019
- 4 Attachment 4 - Gertrude Street Built Form Framework November 2019
- 5 Attachment 5 - Johnston Street Built Form Framework June 2019

- 6 Attachment 6 - Fitzroy East Built Form Framework June 2019
- 7 Attachment 7 - Alexandra Parade Built Form Framework December 2020
- 8 Attachment 8 - Victoria Parade Built Form Framework December 2020
- 9 Attachment 9 - Fitzroy West Built Form Framework December 2020
- 10 Attachment 10 - Brunswick Street and Smith Street Built Form Review – Heritage Analysis and Recommendations - November 2019
- 11 Attachment 11 - Gertrude Street Built Form Review – Heritage Analysis and Recommendations December 2019
- 12 Attachment 12 - Built Form Review: Alexandra Parade – Heritage Analysis and Recommendations - November 2020
- 13 Attachment 13 - Built Form Review: Victoria Parade – Heritage Analysis and Recommendations - November 2020
- 14 Attachment 14 - Built Form Review: Fitzroy West Mixed-Use Precinct – Heritage Analysis and Recommendations – November 2020
- 15 Attachment 15 - Traffic Engineering Assessment Brunswick Street and Smith Street Activity Centres - November 2019
- 16 Attachment 16 - Traffic Engineering Assessment Brunswick Street and Smith Street Activity Centres – Extended Area, November 2020
- 17 Attachment 17 - Community Engagement - Summary
- 18 Attachment 18 - Community Feedback Summaries
- 19 Attachment 19 - Community Feedback - Responses to Key Issues
- 20 Attachment 20 - C271yara - Statements of Significance
- 21 Attachment 21 - C271yara - Built Form Controls Heritage Advice Draft Update
- 22 Attachment 22 - C271yara - Permanent Design and Development Overlays DDO29\_DDO40
- 23 Attachment 23 - C271yara - Zoning Anomalies
- 24 Attachment 24 - C271yara - Clause 11.03-1L Activity Centres
- 25 Attachment 25 - C271yara - Explanatory Report and related amendment documents

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## 8.2 Crown Allotment at 165 Napier Street Fitzroy: Strategic considerations for future utilisation for adventure playground and neighbourhood house activities

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### Executive Summary

#### Purpose

To seek direction from Council on a proposal received from the Fitzroy Learning Network (FLN) to develop new accommodation on the allotment at the corner of Condell and Young Streets, Fitzroy (Volume: 11742 Folio: 520), which is part of the Atherton Reserve (Crown Allotment 69A).

#### Key Issues

In May 2022, the All Saints Parish of Fitzroy informed FLN that it would not renew the FLN lease of the premises at 198 Napier Street and that from mid-2023 the FLN would need to secure new accommodation.

The FLN has been awarded a \$2m grant from the Community Support Fund (a trust fund governed by the Gambling Regulation Act 2003) to enable it to make any long-term accommodation 'fit for purpose'.

It was FLN's intention to use these funds to refurbish the leased premises at 198 Napier Street. The Victorian Department of Treasury and Finance (DTF) has informed FLN that it may exercise its right to withdraw the \$2m granted to the FLN if it does not find suitable accommodation, either purchased or long-term by February 2023.

In late September FLN wrote to Council seeking support for a proposal to develop new accommodation on the allotment at the corner of Condell and Young Streets, Fitzroy (Volume: 11742 Folio: 520), which is part of the Atherton Reserve (Crown Allotment 69A).

Since 1974, this allotment has been used continually for the provision of an Adventure Playground for the children and families of Fitzroy. Following cessation of funding by the Commonwealth in 2014, Yarra Council increased its level of subsidy to support operation of the Fitzroy Adventure Playground.

The Council approved a three-year grant on 30 July 2019 to Save the Children (now known as 54 Reasons) for \$150,000 per annum (plus CPI) towards the operating of the Fitzroy Adventure Playground and management of the site. At its meeting on 31 May 2022, Council resolved to extend this funding agreement to 30 June 2023. Council also requested officers to report back to Council in February 2023 on future funding considerations for the Fitzroy Adventure Playground and to address other strategic considerations.

As required by the Land Owners Consent Application (LACA) process, the FLN is seeking a Statement of Support from Yarra City Council, as the Crown Land Administrator, to develop new accommodation on the allotment at the corner of Condell and Young Streets, Fitzroy (Volume: 11742 Folio: 520), which is part of the Atherton Reserve (Crown Allotment 69A).

#### Financial Implications

The cost of the FLN proposal and feasibility for the site is currently unknown.

To remove any expectation by FLN or other stakeholders that Council would assist financially with any potential shortfalls in the project budget, it would be preferable to state in any response to FLN that Council will not make a commitment to capital funding.

Council has contributed to the operations of the Fitzroy Adventure Playground since its inception. In 2014, the Commonwealth withdrew all funding to adventure playgrounds on public housing estates and Council's financial contribution increased to support continuation of programming.

Since 2016/17, Council has provided \$150,000 per annum via a funding agreement to the provider of the playground program.

As requested by Council, Officers have been giving consideration the management model for the site and any future grant. The maintenance of the “Hut”, along with upkeep of various aspects of the grounds and play equipment, will need to be addressed.

Amongst the options to be proposed to Council in a future report, officers will propose one where the program grant is continued but funding reduced as Council assumes greater for site maintenance to ensure compliance with Australian Standards for the current building and playground. Such an option, could see grant guidelines showing Council’s contribution as:

- (a) management and maintenance of the playground and building of \$20,000 per annum (to be confirmed);
- (b) contribution to community group(s) for adventure playground program(s) of up to \$130,000 per annum (subject to budget); and
- (c) a breakdown of maintenance and grant allocations that may vary according to the site requirements, and which would be considered in the annual budget process.

The annual budget allocation would need to be reviewed if FLN were given approval to develop the site.

## PROPOSAL

### 1. That Council:

- (a) Notes that the Fitzroy Learning Network (FLN) have advised Council that the All Saints Parish of Fitzroy will not renew the lease of 198 Napier St Fitzroy to the Fitzroy Learning Network (FLN), and that from mid-2023, the FLN will need to secure new accommodation;
- (b) Notes that the FLN was awarded a \$2m grant from the Community Support Fund (a trust fund governed by the Gambling Regulation Act 2003) to enable FLN to make any long term accommodation ‘fit for purpose’;
- (c) Notes that Council values the important work and contribution that the FLN make to the Yarra community including the provision of Neighbourhood House activities and supporting those from marginalised communities;
- (d) Note that on 8 September 2022 Council extended an offer to the FLN to relocate to the Council-owned Connie Benn Centre in Fitzroy (on a short or longer term basis) and that this offer was formally declined on 30 September 2022;
- (e) Notes that Yarra City Council is the land administrator of Atherton Reserve at the corner Condell and Young Streets, Fitzroy, by order of the Governor in Council, and that the gazetted reserve purpose is as an Area for Public Recreation’, with ‘Youth adventure playground and associated facilities providing social benefit’ recorded as the approved purpose for the allotment;
- (f) Notes that this allotment has been used for the provision of an Adventure Playground for the children and families of Fitzroy since 1974;
- (g) Notes that pursuant to the Crown Land (Reserves) Act 1978, land administrators must obtain the approval of the Minister for Environment and Climate Action (or their delegate) for:
  - (i) the leasing and licensing of Crown land or to change the purpose of a reserve;
  - (ii) and for the development of Crown land – defined as extending, adding, altering, removing or otherwise changing an asset (built or natural);
- (h) Notes that pursuant to the Crown Land (Reserves) Act 1978, the leasing, licensing or development of Crown land must be consistent with the purpose for which the land is reserved and mindful of any impacts on existing activities undertaken at a reserve;

- (i) Notes that FLN has written to Council seeking support for its proposal to develop new accommodation on the allotment at the corner Condell and Young Streets, Fitzroy (Volume 11742 Folio 520), which is part of the Atherton reserve (Cron Allotment 69A) also known as 'Cubbies';
- (j) Notes that other community organisations have also recently engaged with officers, expressing interest in delivering families and children's programs on this allotment;
- (k) Notes that the FLN proposal is to co-locate a neighbourhood house with the Adventure Playground on this allotment, which entails:
  - (i) retention of the building known as 'The Hut';
  - (ii) retention of playground equipment;
  - (iii) continuation of the adventure playground program; and
  - (iv) using FLN's \$2m capital grant to construct a new facility (a two-storey building with a setback from the street) at the north-western corner of the allotment.
- (l) Acknowledges that the FLN proposal would constitute a marked change to the reserve purpose and approved purpose, specifically:
  - (i) changing from an area reserved for the purpose 'Public Recreation' to also include the 'Purposes of Health and Social Welfare'; and
  - (ii) changing from an approved purpose of 'Youth Adventure Playground and Associated Facilities' to also include a neighbourhood house.
- (m) Notes the Council resolution on 31 May 2022 (Resolution No 7220), which requested officers to report back to Council in February 2023 on future funding considerations for the Fitzroy Adventure Playground and address:
  - (i) the value of the Fitzroy Adventure Playground to local children and the community;
  - (ii) whether afterschool and holiday programs currently offered through the Fitzroy Adventure Playground are well utilised;
  - (iii) participation of children to the adventure playground and utilisation of the site at other times;
  - (iv) future opportunities through the Fitzroy Precinct Plan;
  - (v) the intended use and design for the site as an adventure playground;
  - (vi) facility management options for the site; and,
  - (vii) resolution of maintenance requirements for the site and the community grant; and the inclusion of consideration for the option to bring the Fitzroy Adventure Playground facility and program under Council's direct management.
- (n) Recognises the public value of this allotment and notes that the FLN proposal, or any other proposals which represent a significant change of use, must be subject to thorough scrutiny and that consultation with the local community, especially children and families who are current or potential users of the Adventure Playground, is essential to inform any decision related to the future use of this site;
- (o) Affirms its resolution (Resolution Item 7220) requesting that officers report back to Council on future funding considerations for the Fitzroy Adventure Playground in February 2023;
- (p) Request that officers immediately write to the Department of Environment, Water, Land and Planning advising that Council will not consider or support any proposal for use of this site including the proposal for the FLN to be relocated to this site prior to the consideration of the scheduled February 2023 Report and any subsequent public processes that Council may determine are required to inform its decision including public consultation and a public expression of interest process;

- (q) Recognises that there are multiple parties interested in this site and that it is appropriate and necessary for Council to undertake a competitive and transparent Expression of Interest process in order to establish future utilisation;
- (r) Requests officers engage with representatives of FLN, and if appropriate, write to the Victorian Minister for Disability, Ageing and Carers, and Child Protection and Family Services, and Victorian Treasurer, requesting that FLN be given more time to secure alternative suitable long-term accommodation (i.e. that is suitable for a non-profit community organisation and can be made fit for purpose for neighbourhood house programs and activities);
- (s) Invites the FLN to engage with officers and to reconsider Council's existing offer to relocate to the Council-owned Connie Benn Centre in Fitzroy (on a short- or longer-term basis); and
- (t) Requests that officers write to the FLN informing them of this resolution.



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## 8.2 Crown Allotment at 165 Napier Street Fitzroy: Strategic considerations for future utilisation for adventure playground and neighbourhood house activities

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<b>Reference</b>	D22/314012
<b>Author</b>	Malcolm McCall - Manager Social Strategy and Community Development
<b>Authoriser</b>	Director Community Wellbeing

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### Purpose

1. To seek direction from Council on a proposal received from the Fitzroy Learning Network to develop new accommodation on the allotment at the corner of Condell and Young Streets, Fitzroy (Volume: 11742 Folio: 520), which is part of the Atherton Reserve (Crown Allotment 69A).

### Critical analysis

#### History and background

##### The Fitzroy Learning Network and its accommodation needs

2. Fitzroy Learning Network (FLN) is a Neighbourhood House, Learn Local Centre, Registered Training Organisation, and is a registered charity. FLN is one of Yarra's nine neighbourhood houses and learning centres serving the community, and many of FLN's clients are from the Atherton Gardens estate.
3. FLN, on its own and in concert with other local groups and organisations, helps refugees, migrants, people seeking asylum and those living on the public housing estates in Yarra to navigate complex service systems, undertake training and build social connections through community development programs.
4. FLN's current programs and activities include: celebrations; adult education; accredited training; short courses; creative classes; youth engagement programs; community support services (employment, housing and refugee support); a food bank; community lunches; and gardening programs and events.
5. For three decades, FLN has delivered its programs and activities from premises at 198 Napier St, Fitzroy. Originally a kindergarten, this facility is 430 m<sup>2</sup> in area and comprises: administrative space, a reception area, community support facilities, storage, amenities (120 m<sup>2</sup>); space for program delivery including classrooms, kitchen, music studio, sewing room (200 m<sup>2</sup>); and outdoor space including an undercover veranda (110 m<sup>2</sup>).
6. The FLN was awarded a \$2m grant from the Community Support Fund (a trust fund governed by the Gambling Regulation Act 2003) to enable it to make any long-term accommodation 'fit for purpose'. It was FLN's intention to use these funds to refurbish the leased premises at 198 Napier Street.
7. In October 2021, the FLN responded to a Council Expression of Interest process to activate a council-owned facility (formerly a historical church hall and caretaker's residence) at 12–16 Peel Street Collingwood. The FLN determined that this building was not adequate as a replacement Neighbourhood House, particularly due its floor area (FLN's design concept required an extension of the building footprint). The social enterprise KIN Fashion was ultimately successful, and the Peel Street facility is now being utilised a First Nations fashion hub.

8. In May of 2022, the All Saints Parish of Fitzroy informed FLN that it would not renew the FLN lease of the premises at 198 Napier Street, and that from mid-2023, FLN needed to secure new accommodation. The Mayor of Yarra made representation to representatives of the All Saints Parish, asking they reconsider the FLN tenancy and proposal for refurbishment.
9. The Victorian Department of Treasury and Finance (DTF) has informed FLN that it may exercise its right to withdraw the \$2m granted to the FLN if it does not find suitable accommodation, either purchased or long-term by February 2023.
10. In late September FLN wrote to Council seeking support for its proposal to develop new accommodation on the allotment at the corner of Condell and Young Streets, Fitzroy (Volume: 11742 Folio: 520), which is part of the Atherton Reserve (Crown Allotment 69A). Since 1974, this allotment has been used continually used for the provision of an Adventure Playground for the children and families of Fitzroy.
11. Council values the important work undertaken by the FLN and in particular its' role in servicing marginalised communities in the local area. This commitment is reflected in Councils Funding Agreement and currently provides FLN circa \$115,000 funding per annum to support their service operations including \$74,000 (inclusive of loading to support complex clients), \$34,000 (rental refund) and \$6,700 for building maintenance support. This funding is provided on a calendar year basis and is committed to December 2024 (subject to budget).
12. Officers have been in discussions with FLN and have encouraged it to explore all site options, including the private market. This has included an offer for FLN to use the Council-owned Connie Benn Centre (CBC) to conduct their service operations either for the short- or longer-term. Through a licence, FLN would have exclusive occupancy of 7 workstations, a desk in the reception area and access to the shared amenities of staff kitchen and interview rooms and a set number of bookings to 4 meeting rooms.
13. The FLN Board has communicated through its Chair to officers that:
  - (a) the CBC would significantly limit the activities and services provided by FLN; however, the FLN would like to retain the option of temporary office accommodation in CBC after 30 June 2023 and continue discussions about a possible facility fit out;
  - (b) FLN believes it can successfully establish a neighbourhood house on the allotment at the corner of Condell and Young Streets, enabling the continuation of most FLN programs and activities, co-existing with the adventure playground, ensuring the freedom of children and young people to play, and becoming a multi-generational hub for community activity; and
  - (c) FLN is committed to pursuing a Land Owner's Consent Application (LACA) to develop on this allotment and seeks Council support in lodging a LACA with the Port Phillip Office of DELWP (Department of Environment Land Water and Planning) for assessment and Ministerial (or delegate) approval.

#### The Adventure Playground (AKA Cubbies)

14. In the 1970s, adventure playgrounds were established in five sites in the inner-metropolitan area of Melbourne to support public housing communities. Adventure playgrounds differ from regular playgrounds as they offer beneficial risk-taking during supervised play. They are open during set hours and children are supervised by qualified staff and volunteers.
15. The Fitzroy Adventure Playground at the corner of Condell and Young Streets has always been operated by a community committee of management or a not-for-profit organisation. The Playground is often referred to as 'Cubbies', which is the name of the program, offered by the former Board of Management and now by 54 Reasons.
16. Council, formerly as Fitzroy Council and subsequently Yarra City Council, has supported the Fitzroy Adventure Playground since 1974. Following cessation of funding by the Commonwealth in 2014, Yarra Council increased its level of subsidy to support operation of the playground.

17. On 16 April 2019, Council resolved to return this program to a public, competitive three-year grant program. The Fitzroy Adventure Playground Program Grant was established to provide up to three years of funding subsidy to a not-for-profit organisation towards the operation of the Fitzroy Adventure Playground and management of the site.
18. On 30 July 2019, the Council approved a three-year grant of \$150,000 per annum (plus CPI) for Save the Children (now known as 54 Reasons). The funding agreement was extended by Council Resolution and now finishes on 30 June 2023.
19. The Cubbies program specifically services school-aged children and young people (5–16 years) living in the public housing estate predominantly from Atherton Gardens. The outcomes sought from Cubbies are:
  - (a) Children, young people, and families have a safe space to play and actively participate in their community;
  - (b) Improved connections between children, young people and families with local community groups and service providers;
  - (c) Children and young people are supported to strengthen individual skills that encourage positive life choices and build resilience; and
  - (d) Emerging young leaders are supported to engage in education, employment and community pathways.
20. All staff and volunteers working at Cubbies complete the Child Safeguarding Training, and the organisation continued to develop partnership projects and activities with key services in Fitzroy.
21. Responsibility for maintenance of the facility and the playground is shared between Council and 54 Reasons. 54 Reasons have acknowledged their difficulties in undertaking regular maintenance of Cubbies over the past two and half years.
22. 54 Reasons raised concerns with officers about the condition of the main building and recurring maintenance issues, including: recurring flooding of the kitchen and office spaces after heavy rain, toilet blockages, partial collapse of the ceiling, overflowing water tanks, and the poor condition of the perimeter fence and gate. 54 Reasons also informed Council that the current grant does not adequately cover their costs to run the program as well as the maintenance required for the facility.
23. Council's grant and the provision of a lease is a significant contribution to continuing provision of an adventure playground program in Fitzroy. The Fitzroy Adventure Playground grant is considered a partnership grant and the intention was never for Council to bear most of the costs of providing the program.
24. At the Council meeting on 31 May 2022, Council resolved to endorse an officer recommendation to extend the current funding agreement for the Fitzroy Adventure Playground program grant for 12 months, until 30 June 2023 whilst officers investigate and resolve facility management and future funding options.
25. The Council resolution on 31 May 2022 (No 7220), also requested that officers report back to Council in February 2023 on future funding considerations for the Fitzroy Adventure Playground and address:
  - (a) the value of the Fitzroy Adventure Playground to local children and the community;
  - (b) whether afterschool and holiday programs currently offered through the Fitzroy Adventure Playground are well utilised;
  - (c) the participation of children at the adventure playground and utilisation of the site at other times;
  - (d) future opportunities though the Fitzroy Precinct Plan;
  - (e) the intended use and design of the site as an adventure playground;
  - (f) facility management options for the site;

- (g) resolution of maintenance requirements for the site and the community grant; and,
- (h) consideration of the option to bring the Fitzroy Adventure Playground facility and program under Council's direct management.

Allotment use: current and proposed

- 26. Yarra City Council is the land administrator of Atherton Reserve and this allotment at the corner of Condell and Young Streets by order of the Governor in Council. The gazetted reserve purpose is as an 'Area for Public Recreation', with 'Youth adventure playground and associated facilities providing social benefit' recorded as the approved purpose for the allotment.
- 27. Pursuant to the *Crown Land (Reserves) Act 1978*, land administrators must obtain the approval of the Minister for Environment and Climate Action (or their delegate) for:
  - (a) the leasing and licensing of Crown land or to change the purpose of a reserve; and
  - (b) the development of Crown land – defined as extending, adding, altering, removing or otherwise changing an asset (built or natural).
- 28. Pursuant to the *Crown Land (Reserves) Act 1978*, the leasing, licensing or development of Crown land must be consistent with the purpose for which the land is reserved and mindful of any impacts on existing activities undertaken at a reserve.
- 29. The FLN engaged a planning firm and an architectural firm to examine planning considerations and develop an initial proposal, which is: to retain the building known as 'The Hut' as is, retaining adventure playground features, and use FLN's \$2m grant to build a new building at the north-western corner of the allotment. This building would be two-storey with a setback from the street.



- 30. The FLN proposal would constitute a marked change to the gazetted reserve purpose and approved allotment purpose, specifically:
  - (a) changing from an area reserved for the purpose 'Public Recreation' to also include the 'Purposes of Health and Social Welfare'; and,

- (b) changing from an approved purpose of ‘Youth Adventure Playground and Associated Facilities’ to also include a neighbourhood house.

#### Land Owner’s Consent Application

- 31. Before a Land Administrator (or Committee of Management) can develop a reserve it must first obtain all necessary approvals, beginning with the Minister’s consent (landowner’s consent) followed by the appropriate permits.
- 32. The Land Owners Consent Application (LACA) addresses:
  - (a) the proposed use and/or development including plans outlining the extent, scale, materials, colours etc of the proposal;
  - (b) the location of the proposal;
  - (c) the approximate cost of the proposal;
  - (d) description of the current use of the land;
  - (e) the justification for the proposal;
  - (f) assessment of potential impacts and benefits of the proposal; and,
  - (g) A statement of support from the committee of management or land administrator for the land (if the committee is not the applicant).
- 33. Permits and/or approvals may be required in a range of areas, including:
  - (a) Local government related planning and/or building permits;
  - (b) Aboriginal cultural heritage, Native Title and Traditional Owner rights;
  - (c) Heritage overlays and registers; and
  - (d) Native vegetation clearing and/or protected flora controls.
- 34. For the FLN to develop on this allotment, it would need to:
  - (a) prepare a LACA with the accompanying reports and information (as above);
  - (b) seek and receive a written Statement of Support from Yarra City Council as the Land Administrator;
  - (c) submit the LACA to the Port Phillip Regional Office of DELWP, which would review, process and advise the Minister for Environment and Climate Action (or their delegate) who may or may not offer consent; and
  - (d) seek and receive a planning permit from the Yarra City Council.

#### Discussion

- 35. As required by the LACA process, the FLN is seeking a Statement of Support from Yarra City Council, as the Crown Land Administrator, to develop new accommodation on the allotment at the corner of Condell and Young Streets, Fitzroy (Volume: 11742 Folio: 520), which is part of the Atherton Reserve (Crown Allotment 69A).
- 36. FLN has indicated that it wishes to proceed to completing and submitting a LACA, and to do this in a timely manner given the funding deadline put forward by the DTF (i.e. February 2023). Developing a LACA requires the commitment of significant funds and may not result in FLN’s desired outcome.
- 37. It is unknown if FLN’s budget is sufficient for its development plan. This allotment has extensive soil contamination, which is managed for the current uses, via an approved Soil Management Plan; any development of this site, or change in use will need to be done, cognisant of this matter as this issue could potentially impact negatively on the project budget and any potential future uses of the site.

38. Atherton Gardens is the only public housing estate in Yarra with an adventure playground. FLN has never managed an adventure playground before. However, it has consulted with 54 Reasons about the development and no immediate concerns were raised by 54 Reasons about the FLN proposal.
39. If the FLN proposal were to be successful, the grant reserve and purpose of the allotment would need to change (i.e. to an area reserved for the purpose Public Recreation to also include the Purposes of Health and Social Welfare; and, from an approved purpose of Youth Adventure Playground and Associated Facilities to also include a Neighbourhood House). Council would remain as the Land Administrator and would be required to enter a long-term lease or licenses for the allotment with the approval of the Minister for Environment and Climate Action (or their delegate). Council would have the opportunity to negotiate responsibilities for site management and related use arrangements for other groups, including an adventure playground program or other programs.

### Options

40. With regards to seeking a Statement of Support from Yarra City Council, as the Crown Land Administrator, to develop new accommodation on the allotment at the corner of Condell and Young Streets, Fitzroy (Volume: 11742 Folio: 520), which is part of the Atherton Reserve (Crown Allotment 69A), officers have put forth two options.
- (a) *Option A – Reject the request for a Statement of Support (preferred option)*
- (i) The Director Community Wellbeing writes to the FLN to advise that:
- Council will not consider or support any proposal for the leasing, licensing, use or development of the allotment at the corner Condell and Young Streets, Fitzroy (Volume: 11742 Folio: 520) including the proposal for the FLN to be relocated to this site and prior to the consideration of the scheduled February 2023 Report and any subsequent public processes that Council may determine are required to inform its decision including public consultation and a public expression of interest process
  - Council invites the FLN to engage with officers and to reconsider Council's existing offer to relocate to the Council-owned Connie Benn Centre in Fitzroy (on a short- or longer-term basis).
- (ii) Since the FLN proposal represents a significant change of use and has the potential to compromise the use and access of a long standing and valued community asset for the children and families of the Atherton Estate, Council cannot be rushed into making decisions with serious and potentially negative ramifications.
- (iii) It should be noted that having established that Council will not support the proposal at this juncture, and given the DTF deadline, it would be reasonable to assume that the FLN will not progress a LACA. In not seeing a completed LACA, the Council may never know whether a co-located Neighbourhood House and Adventure Playground could have delivered community benefits.
- (iv) It should also be noted that the funding and maintenance of the Adventure Playground is a significant cost shouldered alone by Council. Further, the condition and suitability of the Hut, along with aspects of the grounds and play equipment, mean that Council could be expected to outlay considerable funds in the coming years.
- (b) *Option B – Council indicates that it wishes to see a completed LACA from FLN and requests officers undertake a timely review of the LACA and present a report to Council in early 2023 to consider its merits and whether to offer a Statement of Support:*

- (i) The Board of the FLN is confident that it can successfully establish a neighbourhood house on this allotment at the corner of Condell and Young Streets, which would enable the continuation of most FLN programs and activities, co-exist with the adventure playground and not compromise the freedom of children and young people to play, and become a multi-generational hub for community activity;
- (ii) The relocation of FLN to the allotment – in the proposed or another form – could result in savings to Council, with a rental refund no longer required, maintenance refund potentially reduced and other possible benefits (the rental and maintenance refunds currently form part of FLN's neighbourhood house funding agreement); and
- (iii) That noted, Council has recognised that the Adventure Playground has generated public value (demonstrated by its funding and policy) and is valued by the families and children of the Atherton Gardens Community. In May 2022, Council committed to further investigation and community consultation to establish the best means by which to enhance access and viability of the Fitzroy Adventure Playground.

## Community and stakeholder engagement

- 41. FLN has discussed with officers the challenges they have experienced in finding suitable, alternate, and long-term accommodation in Fitzroy through the private market. Officers have assisted FLN to explore options using the assets of Yarra City Council or the state government.
- 42. On 8 September 2022, correspondence was sent to FLN formally inviting it to relocate to the Connie Benn Centre in Fitzroy.
  - (a) FLN declined the Connie Benn offer and reaffirmed their preference to move to the adventure playground site. Officers believe FLN wishes to obtain a standalone, larger venue with outdoor space; and
  - (b) FLN is interested in using the Connie Benn Hub as a temporary location after their current lease ends in June 2023. There has been no further communication on the possibility of an interim arrangement at Connie Benn by FLN.
- 43. The FLN President and its planning and architectural consultants met with Council's Acting Director Planning and Place Making and Manager Social Strategy and Community Development on 12 October 2022 to present on FLN's need, concepts, and broad canvassing of planning considerations.
- 44. Prior to caretaker period for the Victorian election, FLN communicated with the local Member the Honourable Richard Wynne MP, who expressed his support. He has advocated to the Honourable Lily D'Ambrosio MP who, as the incumbent Minister for Environment and Climate Action, has delegated authority to provide Land Owner's Consent on behalf of the Crown.
- 45. FLN promoted its preference to move to the Fitzroy Adventure Playground site through the FLN community newsletter. Some community groups have expressed concern to officers and councillors about the proposal and the future of Cubbies. Some community groups are not in favour of the 54 Reasons' cubbies program but are interested in activating the site as a community asset under the banner of Cubbies.
- 46. Deeper and broader consultation with the local community is necessary to better understand community interests and opportunities for the site. Of consideration is how the proposal fits with the vision for the future Fitzroy Precinct and open space provision and whether community groups can manage the site.

## Policy analysis

### Alignment to Community Vision and Council Plan

47. Council investment in the FLN through the Neighbourhood Houses and Learning Centres and the Fitzroy Adventure Playground grants contributes to strategic objectives of the Council Plan: objective 2 – social equity and health; and objective 4 – place and nature. Both programs also align with priority areas in the Yarra 0–25 Plan (for children, young people, and their families).

### Community and social implications

48. The site is part of the precinct around the Fitzroy Town Hall and has been used for the provision of an adventure-play-based program since 1974.
49. Outside of the adventure playground hours, utilisation of the site has been low for years.
50. Whilst the site is recognised to contain contaminated soil, an approved Soil Management Plan has been developed and is enforced; this also informs the current and approved use of the site, including limiting the type of activities suitable for the site.
51. Community based learning programs, such as those provided by FLN, contribute to community wellbeing as they are usually free or low fee and cater to diverse needs. FLN is an experienced provider of community development programs for culturally and linguistically diverse residents and knows the local community well.

### Economic development implications

52. An investment of \$2m into developing the site is a positive contribution to the local economy.

### Human rights and gender equality implications

53. FLN has not provided information to Council officers regarding human rights and gender equality implications for its proposal.

## Operational analysis

### Financial and resource impacts

54. The cost of the FLN proposal and feasibility for the site is currently unknown. To remove any expectation by FLN or other stakeholders that Council would assist financially with any potential shortfalls in the project budget, it would be preferable to state in any response to FLN that Council will not make a commitment to capital funding.
55. Council has contributed to the operations of the Fitzroy Adventure Playground since its inception. In 2014, the Commonwealth withdrew all funding to adventure playgrounds on public housing estates and Council's financial contribution increased to support continuation of programming. Since 2016/17, Council has provided \$150,000 per annum via a funding agreement to the provider of the playground program.
56. As requested by Council, Officers have been giving consideration the management model for the site and any future grant. The maintenance of the "Hut", along with upkeep of various aspects of the grounds and play equipment, will need to be addressed. Amongst the options to be proposed to Council in a future report, officers will propose one where the program grant is continued but funding reduced as Council assumes greater for site maintenance to ensure compliance with Australian Standards for the current building and playground. Such an option, could see grant guidelines showing Council's contribution as:
  - (a) management and maintenance of the playground and building of \$20,000 per annum (to be confirmed); and
  - (b) contribution to community group(s) for adventure playground program(s) of up to \$130,000 per annum (subject to budget); and a breakdown of maintenance and grant



allocations that may vary according to the site requirements, and which would be considered in the annual budget process.

57. The annual budget allocation would need to be reviewed if FLN were given approval to develop the site.
58. Council currently provides circa \$115,000 of funding per annum to the FLN to support their service operations including \$74,000 (inclusive of loading to support complex clients), \$34,000 (rental refund) and \$6,700 for building maintenance support. This funding is provided on a calendar year basis and is committed to December 2024 (subject to budget).

### Legal Implications

59. Please refer to the discussion section on consideration regarding the statutory frameworks governing the purpose and use of Crown Land.
60. There are no immediate legal implications identified.

### Conclusion

61. It is regrettable that the All Saints Parish of Fitzroy have determined to terminate the lease of the premises at 198 Napier St to FLN. This building and its location have served the FLN and its community patrons well. If FLN was only given the opportunity to use the \$2m grant on building refurbishment, it could have remained a treasured community asset for the decades to come.
62. That noted, the FLN proposal represents a significant change of use and has the potential to compromise the use and access of a long standing and valued community asset for the children and families of the Atherton Gardens Estate. The mitigation of such risks requires robust engagement with community stakeholders and the deliberation of people with expertise across disciplines. Achieving this within such a short time frame is not possible.
63. Officers' advice and preferred option is that the FLN be informed that Council will not consider or support any proposal for the leasing, licensing or development of the allotment at the corner Condell and Young Streets, Fitzroy (Volume: 11742 Folio: 520) prior to the officers' report in response to the resolution (Resolution No 7220) on the future of the Adventure Playground.
64. It is an ongoing challenge for FLN and other non-profits to secure suitable accommodation within the City of Yarra and it would seem to be fair and prudent for the state government through its agencies to give more time for the FLN to find long term accommodation.

### RECOMMENDATION

1. That Council:
  - (a) Notes that the Fitzroy Learning Network (FLN) have advised Council that the All Saints Parish of Fitzroy will not renew the lease of 198 Napier St Fitzroy to the Fitzroy Learning Network (FLN), and that from mid-2023, the FLN will need to secure new accommodation;
  - (b) Notes that the FLN was awarded a \$2m grant from the Community Support Fund (a trust fund governed by the Gambling Regulation Act 2003) to enable FLN to make any long term accommodation 'fit for purpose';
  - (c) Notes that Council values the important work and contribution that the FLN make to the Yarra community including the provision of Neighbourhood House activities and supporting those from marginalised communities;
  - (d) Note that on 8 September 2022 Council extended an offer to the FLN to relocate to the

Council-owned Connie Benn Centre in Fitzroy (on a short or longer term basis) and that this offer was formally declined on 30 September 2022;

- (e) Notes that Yarra City Council is the land administrator of Atherton Reserve at the corner Condell and Young Streets, Fitzroy, by order of the Governor in Council, and that the gazetted reserve purpose is as an Area for Public Recreation', with 'Youth adventure playground and associated facilities providing social benefit' recorded as the approved purpose for the allotment;
- (f) Notes that this allotment has been used for the provision of an Adventure Playground for the children and families of Fitzroy since 1974;
- (g) Notes that pursuant to the Crown Land (Reserves) Act 1978, land administrators must obtain the approval of the Minister for Environment and Climate Action (or their delegate) for:
  - (i) the leasing and licensing of Crown land or to change the purpose of a reserve;
  - (ii) and for the development of Crown land – defined as extending, adding, altering, removing or otherwise changing an asset (built or natural);
- (h) Notes that pursuant to the Crown Land (Reserves) Act 1978, the leasing, licensing or development of Crown land must be consistent with the purpose for which the land is reserved and mindful of any impacts on existing activities undertaken at a reserve;
- (i) Notes that FLN has written to Council seeking support for its proposal to develop new accommodation on the allotment at the corner Condell and Young Streets, Fitzroy (Volume 11742 Folio 520), which is part of the Atherton reserve (Cron Allotment 69A) also known as 'Cubbies';
- (j) Notes that other community organisations have also recently engaged with officers, expressing interest in delivering families and children's programs on this allotment;
- (k) Notes that the FLN proposal is to co-locate a neighbourhood house with the Adventure Playground on this allotment, which entails:
  - (i) retention of the building known as 'The Hut';
  - (ii) retention of playground equipment;
  - (iii) continuation of the adventure playground program; and
  - (iv) using FLN's \$2m capital grant to construct a new facility (a two-storey building with a setback from the street) at the north-western corner of the allotment.
- (l) Acknowledges that the FLN proposal would constitute a marked change to the reserve purpose and approved purpose, specifically:
  - (iii) changing from an area reserved for the purpose 'Public Recreation' to also include the 'Purposes of Health and Social Welfare'; and
  - (iv) changing from an approved purpose of 'Youth Adventure Playground and Associated Facilities' to also include a neighbourhood house.
- (m) Notes the Council resolution on 31 May 2022 (Resolution No 7220), which requested officers to report back to Council in February 2023 on future funding considerations for the Fitzroy Adventure Playground and address:
  - (i) the value of the Fitzroy Adventure Playground to local children and the community;
  - (ii) whether afterschool and holiday programs currently offered through the Fitzroy Adventure Playground are well utilised;
  - (iii) participation of children to the adventure playground and utilisation of the site at other times;
  - (iv) future opportunities though the Fitzroy Precinct Plan;

- (v) the intended use and design for the site as an adventure playground;
- (vi) facility management options for the site; and,
- (vii) resolution of maintenance requirements for the site and the community grant; and the inclusion of consideration for the option to bring the Fitzroy Adventure Playground facility and program under Council's direct management;
- (n) Recognises the public value of this allotment and notes that the FLN proposal, or any other proposals which represent a significant change of use, must be subject to thorough scrutiny and that consultation with the local community, especially children and families who are current or potential users of the Adventure Playground, is essential to inform any decision related to the future use of this site;
- (o) Affirms its resolution (Resolution Item 7220) requesting that officers report back to Council on future funding considerations for the Fitzroy Adventure Playground in February 2023;
- (p) Request that officers immediately write to the Department of Environment, Water, Land and Planning advising that Council will not consider or support any proposal for use of this site including the proposal for the FLN to be relocated to this site prior to the consideration of the scheduled February 2023 Report and any subsequent public processes that Council may determine are required to inform its decision including public consultation and a public expression of interest process;
- (q) Recognises that there are multiple parties interested in this site and that it is appropriate and necessary for Council to undertake a competitive and transparent Expression of Interest process in order to establish future utilisation;
- (r) Requests officers engage with representatives of FLN, and if appropriate, write to the Victorian Minister for Disability, Ageing and Carers, and Child Protection and Family Services, and Victorian Treasurer, requesting that FLN be given more time to secure alternative suitable long-term accommodation (i.e. that is suitable for a non-profit community organisation and can be made fit for purpose for neighbourhood house programs and activities);
- (s) Invites the FLN to engage with officers and to reconsider Council's existing offer to relocate to the Council-owned Connie Benn Centre in Fitzroy (on a short- or longer-term basis); and
- (t) Requests that officers write to the FLN informing them of this resolution.

## Attachments

There are no attachments for this report.

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## Clifton Hill to North Abbotsford Corridor Road Safety Study

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### Executive Summary

#### Purpose

To present the recommended road safety treatments identified by the Clifton Hill to North Abbotsford Corridor Road Safety Study (RSS), including proposals requiring advocacy to the Department of Transport (DoT), and proposals for further study.

#### Key Issues

A Road Safety Plan (RSP) has been prepared for the Clifton Hill to North Abbotsford Corridor, in accordance with the *Road Safety Study Policy 2021*.

This RSP includes 10 recommended road safety treatments, one further study and 3 road safety items for advocacy to the Department of Transport (DoT). The cost of the recommended treatments is estimated to be in the order of \$864,900 to implement.

#### Financial Implications

Implementation of the recommended RSP has been estimated to cost \$864,900.00 (exclusive of GST).

The costs for ongoing maintenance of new infrastructure associated with these proposals is expected to be in the order of \$10,000 per annum. Officers will seek to budget for the necessary maintenance costs of any approved treatments as part of the budgeting process for 2023/24 and beyond.

Subject to approval and allocation of sufficient funding, implementation of the recommended RSP can commence immediately with design of one treatment in 2022/23. Further design work and subsequent delivery of the proposed treatments could commence in 2023/24 and be carried out in the upcoming years, subject to funding allocations.

#### PROPOSAL

That Council:

- (a) endorse the 10 recommended road safety treatments, and one further study identified in the Clifton Hill to North Abbotsford Corridor Road Safety Plan (RSP);
- (b) instruct officers to undertake advocacy to DoT for the list of treatments identified in the Clifton Hill to North Abbotsford Corridor Road Safety Plan (RSP) which require DoT approval;
- (c) notes that subject to Council approval and allocation of sufficient funding, implementation of the recommended RSP for the Clifton Hill to North Abbotsford Corridor can commence immediately with design of one treatment in 2022/23, with further design work and subsequent delivery of the proposed treatments to commence in 2023/24 and be carried out in the upcoming year; and
- (d) inform the community stakeholders of the road safety treatments that have been approved for implementation as part of the Clifton Hill to North Abbotsford RSS.

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## 8.3 Clifton Hill to North Abbotsford Corridor Road Safety Plan

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<b>Reference</b>	D22/306143
<b>Author</b>	Peter Moran - Manager Infrastructure, Traffic and Civil Engineering
<b>Authoriser</b>	Director City Works and Assets

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### Purpose

1. To present the recommended road safety treatments identified by the Clifton Hill to North Abbotsford Corridor Road Safety Study (RSS), including proposals requiring advocacy to the Department of Transport (DoT), and proposals for further study.

### Critical analysis

#### History and background

#### Road Safety Study Policy

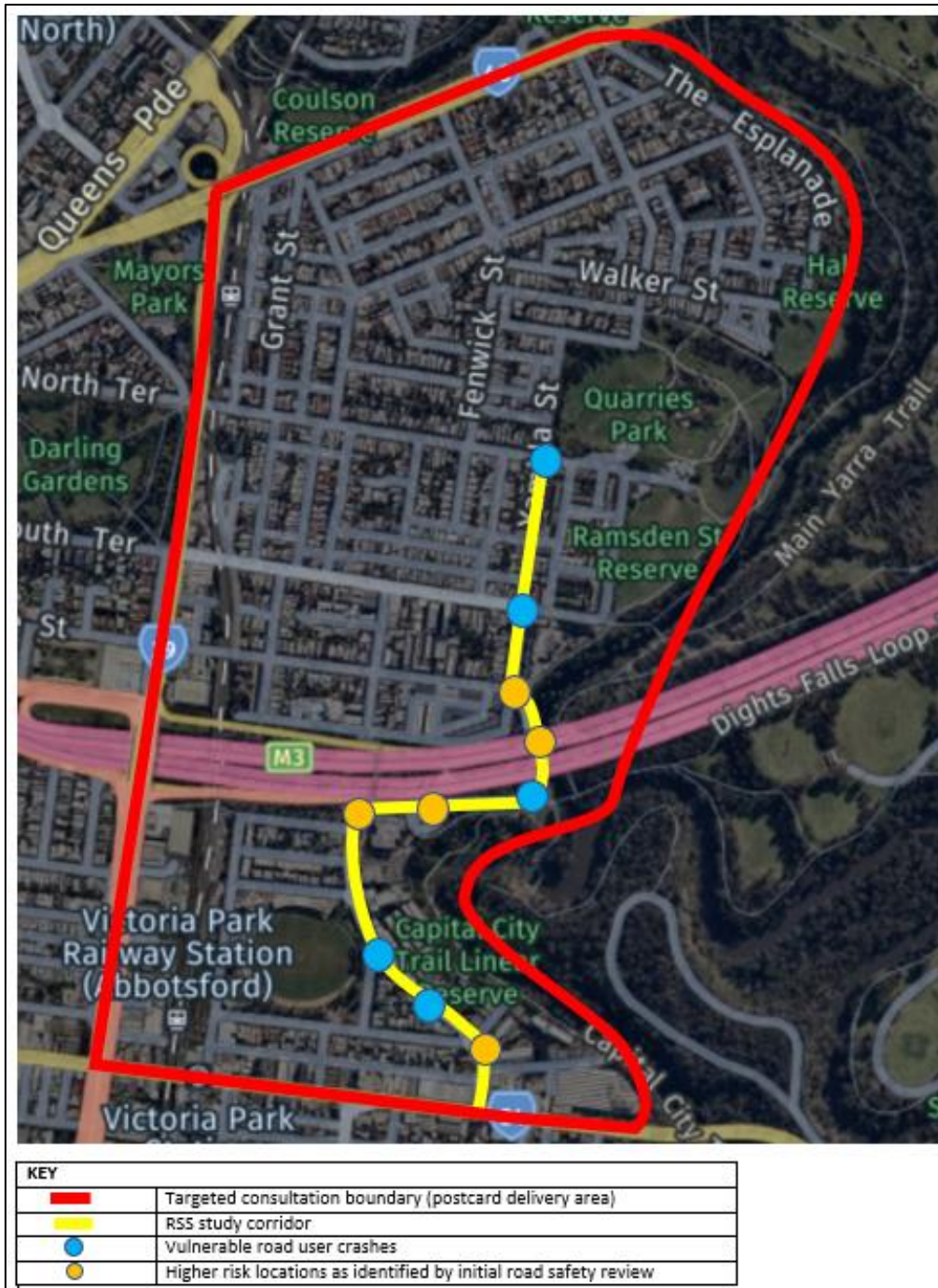
2. The RSS Policy was adopted on 5 October 2021. This superseded the Local Area Place Making (LAPM) and Local Area Traffic Management (LATM) approaches which were used to assess and manage traffic safety matters in previous years.
3. When adopting the RSS Policy, it was resolved that Council:
  - (a) Note the outcome of the Local Area Place Making and Traffic Management Studies (LATM/LAPMS) Policy Review, and acknowledge the need to revise Yarra's approach to local streets in terms of movement and place;
  - (b) Note the draft Road Safety Study Policy as an approach to road safety only, which supports the implementation of Yarra's Safe Travel Strategy 2016-2026, and which cannot by itself supersede the previous LAPMS Policy;
  - (c) Acknowledge the high level of community interest and engagement in planning local streets and the need for a Framework to capture that interest and engagement;
  - (d) Acknowledge the need to undertake road safety projects in 2021-2022 financial year and therefore adopt the Road Safety Policy, subject to the removal of the Background section, as the basis on which to conduct the two budgeted studies for 2021-22 only – in Richmond and East Clifton Hill/North Abbotsford; and
  - (e) Requests officers to provide a review of the new process to Council following the completion of these two studies with recommendations for further refinement of the approach or its replacement if appropriate.
4. The RSS Policy sets out that a study could occur at a site, corridor or precinct level.
5. This approach provides flexibility so that Council can address priority locations as evidenced by data and locations with ongoing community concern regarding road safety.
6. Despite the change from a precinct only study, a RSS will generally follow the approaches to community engagement that have been successful in past studies.
7. Generally, a RSS will seek to implement road safety interventions that:
  - (a) Minimise conflict between varying modes of transport, with higher priority given to pedestrians and cyclists without compromising the functional role of streets;
  - (b) Reduce vehicle speeds in locations where there is interaction between vehicles and vulnerable road users;
  - (c) Make it safer to cross streets and seek to remove barriers to accessibility that result in road safety issues; and

- (d) Implement other Council priorities relating to tree planting and greenery and sustainable management of water where there is an opportunity to do so as part of delivering road safety treatments.
- 8. The RSS Policy also sets out that (in most cases) restrictive measures to reduce vehicle volume (such as major road closures) would not be considered as part of a study.
- 9. In many past studies, these measures have not been supported by the community (as a whole) particularly where this results in restricted access to local facilities or neighbouring suburbs; increased travel times and a potential redistribution of traffic onto other streets in the neighbourhood (i.e. transferring the problem elsewhere).
- 10. Notwithstanding this, the Policy notes that there may be opportunities on streets with a high number of vulnerable road users and low traffic volumes, where restricted access could result in significant safety improvements or overall community benefit. In such cases, localised restrictions on vehicle access could be explored as part of the study.
- 11. The key output of a RSS is a Road Safety Plan (RSP).

Clifton Hill to North Abbotsford Study Corridor

- 12. A RSS has been undertaken for the Clifton Hill to North Abbotsford corridor.
- 13. This RSS is the first to be completed under Council's *Road Safety Study Policy 2021*.
- 14. The study area is the local access movement corridor that connects Heidelberg Road with Johnston Street via Clifton Hill and north Abbotsford, under the Eastern Freeway, following Yambla Street, Gray Street and Trenerry Crescent.
- 15. The study corridor is shown in Figure 1, below.
- 16. The study corridor is an important local link between Clifton Hill and North Abbotsford that is highly valued by the local community.
- 17. This corridor is a busy route for vehicles, cyclists and pedestrians and caters for both local and longer journeys.
- 18. The corridor traverses predominantly residential areas and provides access to:
  - (a) Yarra Recycling Centre and depot on Roseneath Street, Clifton Hill;
  - (b) Large scale office uses on Trenerry Crescent; and
  - (c) Victoria Park, Ramsden Oval, Quarries Park, Merri Creek and Yarra Bend Parkland.
- 19. The corridor provides connection with key destinations and connecting cycling routes, including:
  - (a) Heidelberg Road;
  - (b) Several connections to and from Merri Creek Trail and Main Yarra Trail; and
  - (c) Johnston Street.

Figure 1. Clifton Hill to North Abbotsford Study Corridor



20. There has been casualty crashes and many reports of near misses on the study corridor. Collisions for the past five years are shown in Figure 2, below.

**Figure 2. Collisions recorded in the past five years**



21. While the focus is on the study corridor, the study did investigate road safety issues reported by the community on streets surrounding or connecting into the study corridor, in addition to locations that were identified as worthy of investigation based on crash data.

Independent expertise

22. Professional service consulting firm Traffix Group was engaged to assist Council's Traffic Unit to investigate, develop and consult on a recommended RSP for the Clifton Hill to North Abbotsford Corridor in February 2022.



23. The report prepared by Traffix Group, outlining the RSS and proposed RSP, is included in **Attachment 1**.

Discussion

24. The recommended RSP, including concept drawings of each of the recommended road safety treatments, is included in **Attachment 2**.
25. To better understand the importance proposed treatments from a road safety perspective, Council Traffic Engineers have assessed and rated each treatment on a scale of 1 - 5 (with 1 being lower safety importance and 5 being higher safety importance).
26. The road safety assessment rated each treatment against a set of measures including crashes, number of bikes and pedestrians, conflict between road users, reported safety issues, barriers to safe movement for young/old/mobility impaired and proximity to key land uses (schools, childcare, libraries/community facilities).
27. The recommended road safety treatments in the RSP are summarised in Table 1, below.

**Table 1. Recommended road safety treatments in the Road Safety Plan**

	Location	Recommended road safety treatment	Road Safety Rating
<b>2</b>	Yambla Street / Ramsden Street	Additional speed hump on Ramsden Street to the east of the intersection. Widened bicycle cut-through exiting Yambla Street. Pram ramps and pedestrian cut-through to the east of intersection	5
<b>4</b>	Yambla Street / Roseneath Street / Gray Street	Additional speed humps on Roseneath Street approaching intersection. Zebra crossing of Roseneath Street, west of the intersection. Priority crossing of Gray Street, south of the intersection. Conversion of painted treatment to landscaped area	4.5
<b>5</b>	Gray Street / Noone Street / Trenerry Street	Additional speed humps approaching the intersection. Removal of mid-intersection 'stop' and 'give way' treatment (return to standard 'T' treatment). Upgraded median islands. Raised pedestrian crossing on Gray Street north of the intersection	4.5
<b>6</b>	Trenerry Crescent between Gray and Maugie (interim treatment)	Upgraded and additional speed humps in both directions. Painted bike lanes on downhill sections of Trenerry Crescent. Distinctive new lane marking for shared lanes. Centre median islands or vibraline on curves (interim/immediate treatment)	4.5
<b>7</b>	Trenerry Crescent / Maugie Street	Additional speed hump to north of intersection. Shared turning lane right from Trenerry to Maugie Street	5
<b>8</b>	Eastern Freeway Overpass	Additional wayfinding and informational signage	3
<b>9</b>	Trenerry Crescent / Abbott Street	Additional speed humps approaching roundabout. Zebra crossings on all legs of roundabout. Distinctive new lane marking for shared lanes	3.5
<b>10</b>	Trenerry Crescent / Bath Street	Raising of the zebra crossing. Removal of the hook turn lane for bikes and adding standard right turn lane. Widen cut-through	4

<b>11</b>	Trenerry Crescent / Turner Street	Zebra crossings on all legs of roundabout. Distinctive new lane marking for shared lanes	3.5
<b>12</b>	Turner Street between Lulie and Trenerry	Additional speed humps for length of Turner Street. New raised zebra crossing at Rich Street and Victoria Park. Narrowed lanes and inclusion of median planting in temporary structures between Bath Street and Trenerry Crescent	4
<b>18</b>	Field Street between Ramsden and Roseneath	Road safety review of Field Street, particularly at the intersections with Ramsden Street and Roseneath Street, 12 months after the introduction of the recommended treatments at Yambla Street.	3

28. The recommended advocacy projects in the RSP are summarised in Table 2, below.

**Table 2. Recommended advocacy projects in the Road Safety Plan**

	<b>Location</b>	<b>Recommended advocacy project</b>	<b>Road Safety Rating</b>
<b>1</b>	Heidelberg Road / Fenwick Street	Signalised control of right turn from Heidelberg Road to Fenwick Street	5
<b>6</b>	Trenerry Crescent between Gray and Maugie (ultimate treatment)	New off-road shared path connecting with and adjacent to Trenerry Crescent, under the Eastern Freeway (ultimate treatment)	5
<b>17</b>	Johnston Street between Lulie and Trenerry	Road safety review of Johnston Street (a DoT road), from west of Lulie Street to east of Trenerry Crescent, with particular consideration of: <ul style="list-style-type: none"> <li>• Pedestrian safety at Lulie Street</li> <li>• Pedestrian safety at Rich Street</li> <li>• Delivery of treatment proposed in LAPM13 at Nicholson Street</li> <li>• Pedestrian and cyclist safety at Trenerry Crescent</li> <li>• Removal of approximately 5 parking spaces on Johnston Street to the west of Trenerry Crescent</li> </ul>	5

29. Location numbers 13, 14 and 15 were initially generated for possible treatments at the intersections of Lulie Street, Rich Street and Trenerry Crescent with Johnston Street.

30. After further consideration it was decided that Johnston Street would benefit from a more holistic review of road safety which captures concerns from a previous Local Area Place Making study for Abbotsford (LAPM 13) which borders Johnston Street to the south.

31. Locations 13, 14 and 15 were not presented to the public during the study. It was instead proposed (under Location 17) that Council will advocate for a road safety review of Johnston Street using a more holistic approach. This approach was generally supported by the community. Community support for treatments is discussed later in this report.

32. Two potential road safety treatments were considered in the Study but not included in the officer recommended RSP for reasons outlined.

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Location 3 – Yambla Street between Ramsden Street and Roseneath Street

33. Following a road safety review and consultation with internal staff across the organisation, a proposal to change traffic restrictions on Yambla Street was put to the community to understand the potential level of support and any further considerations regarding the possible implementation.
34. The proposed changes to traffic restrictions would effectively make this section of Yambla Street a no-through road to vehicles, while retaining through movements for pedestrians and cyclists. The proposed changes retain local vehicle access to properties, albeit potentially in a more circuitous route depending on direction of travel.
35. The changes to traffic restrictions on Yambla Street were proposed on the basis that:
  - (a) A reduction of traffic on Yambla Street would improve the conditions for cyclists on Yambla Street noting reports of crashes involving cyclists and poor behaviour of some drivers; and
  - (b) It would potentially simplify the intersections at each end of Yambla Street (at Ramsden Street and Roseneath Street) noting the high number of conflicting movements between road users that occur at these locations.
36. The changes to traffic restrictions were not proposed on the basis that it would reduce traffic in the area, or specifically reduce commuter traffic which is an issue for some members of the community.
37. It was acknowledged in Stage 2 consultation material that the proposal would result in a redistribution of traffic onto other local streets in the area.
38. Further investigation and assessment indicates a potential for an additional 1,000 vehicles a day to transfer to Field Street as the likely alternative route to Yambla Street.
39. The proposal was not supported by the majority of community contributors with 65% of the community feedback in opposition to the treatment. Further details on community feedback are provided later in this report.
40. One of the main community concerns was the potential for non-local drivers to re-route via Aitken Street and Yambla Street as this could potentially be identified as a shorter route, particularly those drivers following Sat Nav instructions.
41. This would negate some of the positive road safety benefits by this proposed treatment.
42. On balance, it is considered that the potential risk of ongoing community dissatisfaction and additional expenditure outweighs the positive aspects of the proposed treatment.
43. The intersection treatments at Yambla Street/Ramsden Street (Location 2) and Yambla Street/Roseneath Street (Location 4) can proceed without the changes to traffic restrictions on Yambla Street and would result in improvements to road safety at these locations.
44. None of the recommended treatments would preclude a future change of traffic restrictions on Yambla Street should there be a change in community sentiment or a change in conditions.

Location 16 Field Street / Roseneath Street

45. In order to address some of the community concerns in relation to the proposed treatment at Location 16 where there was a potential for non-local drivers to re-route via Aitken Street and Yambla Street, it was initially proposed as part of Stage 2 consultation to the community, to install speed cushions in Field Street.
46. When considering the proposed changes to traffic restrictions on Yambla Street (which would increase the level of traffic on Field Street), Council received a large amount of feedback on safety concerns for Field Street which were not identified during earlier stages of consultation, including concerns at Field Street and Roseneath Street.
47. These community concerns should be investigated separately in the context of any recommendation not to proceed with the Yambla Street proposals.

48. Any treatment to address the concerns expressed by the community during Stage 2 consultation would likely result in a reduction in parking in a location where parking is highly contested and highly valued by the community.
49. It has therefore been recommended to undertake a review following the implementation of other recommended road safety treatments in the area put forward within the RSP.
50. This study, identified in Location 18, will be undertaken at least 12 months following the installation of treatments relating to Yambla Street, Ramsden Street and Roseneath Street.
51. The study will involve data collection and analysis to understand localised safety issues; development of concepts to address road safety issues, if needed; and targeted local community engagement with affected community to review the proposed treatments, if any.
52. If road safety treatments are proposed as a result of this follow up study, they will be treated as operational, addressing road safety, and will not require a resolution from Council.
53. The cost of undertaking this review has been included within the cost estimates for this RSS as discussed later in this report.
54. Any treatments resulting from this further review would be put forward as discretionary bids for consideration in future budgets, with any potentially significant safety risks prioritised for action.

### Options

55. The recommended RSP is the culmination of a thorough review of issues and the options for addressing these, involving the internal and external stakeholders and the community. This recommended RSP includes the recommended option for each location identified in the study.
56. Based on data for crash rates and numbers of issues raised by community, it is recommended that design and delivery of treatments be prioritised as follows:
  - (a) Highest priority: Locations 2, 4, 5, 6 (interim treatment), 7;
  - (b) Medium priority: Locations 9, 10, 11, 12;
  - (c) Lowest priority: Locations 8, 18; and
  - (d) Advocacy: Locations 1, 6 (ultimate treatment), 17.

## **Community and stakeholder engagement**

### Community engagement

57. Community engagement was undertaken in accordance with the RSS Policy, and Council's Community Engagement Policy.
58. In accordance with the RSS Policy, community engagement is undertaken in three stages.
59. Stage 3 of community engagement, notifying the community of the recommended RSP will commence after the Council Briefing.
60. Stage 1 and Stage 2 engagement activities and findings are outlined below.

### Stage 1 community engagement (November-December 2021)

61. An information postcard was sent to all properties within the study area inviting the community to participate in the study. The study was also advertised via Council's social media platforms.
62. Your Say Yarra was the primary engagement platform. The community was invited to tell Council:
  - (a) How they use and travel along the study corridor;
  - (b) What road safety issues they experience on the study corridor and surrounding streets; and

- (c) Its opinion on an-area wide 30km/hr speed limit at some point in the future (subject to the State Government's position on 30km/hr speed limits as the approval authority).

- 63. 312 participants completed surveys on how they travel on the study corridor, and 406 comments were left on the mapping tool.
- 64. 10 separate emails and phone calls were also received, and approximately 30 people attended a pop-up session held at Victoria Park during the consultation period.
- 65. Most of the submissions were from residents who live in the study area (81% of survey participants) or from people who work in or regularly visit the area (18% of survey participants).
- 66. There was also a small number of responses from participants who use the corridor as part of a longer journey with no destination in the study area (1%).

*How respondents use the study corridor*

- 67. On weekdays, 38% of residents travel only by motor vehicle and 13% walk and/or cycle only. Most residents (48%) use a mix of travel modes when using the study corridor.
- 68. On weekends, the percentage of residents who only travel by car is slightly lower (29%) and walking/cycling is slightly higher (27%), but again most residents use a mix of motor vehicle, walking and cycling (48%).
- 69. When visiting local destinations (such as Victoria Park), most residents tend to either walk or cycle (62%) or travel by a mix of modes (27%).
- 70. Participants who either work or visit the area tend to walk/cycle slightly more than residents that use the study corridor. The travel patterns of all participants who answered the survey closely reflect the feedback received from residents.
- 71. Travel patterns by age group reflects the overall feedback, although there is a higher percentage of participants who walk/cycle between ages 20-45.
- 72. There is a higher number of participants over 60 who only drive in general, although half of these participants tend to walk/cycle to local destinations.

*Feedback on road safety issues*

- 73. A detailed summary of the road safety issues identified by respondents in Stage 1 is provided in **Attachment 3**.
- 74. There was a high level of agreement on many of the issues and locations to be investigated as part of the study. This includes:
  - (a) Intersections on Trenerry Crescent, Gray Street and Yambla Street that have a high level of conflicting movements between road users;
  - (b) The tight bends and sections of narrow road on Trenerry Crescent;
  - (c) Accessibility between North Abbotsford and Clifton Hill over/under the Eastern Freeway, including along the Merri Creek and Capital City Trails;
  - (d) Non-compliance with existing crossings or a lack of safe crossings at locations;
  - (e) High vehicle speeds and poor driver behaviour on sections of the study corridor and some nearby streets; and
  - (f) Safety and congestion concerns at Roseneath Street/Hoddle Street intersection and Fenwick Street/Heidelberg Road intersections due to the Department of Transport pop-up bicycle trials (changes have been made to these intersections by the Department of Transport since Stage 1 consultation).

*Area-wide 30km/hr speed limits*

- 75. To help inform Council's objective to increase the number of 30km/hr area-wide speed zones in Yarra, survey participants were asked their current views on speed limits in the study area.
  - (a) 32.4% of participants support a 30km/hr speed limit;

- (b) 43.3% of participants oppose a 30km/hr speed limit; and
- (c) 25.3% of participants would require further information to inform any decision.

76. There is no proposal to include a 30km/hr speed limit trial as part of this Road Safety Study. Officers are currently liaising with the Department of Transport as to how to progress this key Council objective.

#### Stage 2 community engagement (June-August 2022)

- 77. Your Say Yarra was the primary consultation tool, supported by two in-person drop-in sessions attended by officers and traffic consultants. An information postcard was sent to all properties within the study area.
- 78. Community members were invited to indicate their level of support or opposition to concept designs prepared by an independent traffic consultant to help inform how, or whether Council should proceed with the options provided.
- 79. 183 participants provided feedback via Your Say Yarra, with some of the treatments receiving a higher level of responses than others.
- 80. 30 separate emails and letters were also received. Most of the emails and letters opposed the Location 3 Yambla Street proposals (although there were a few letters of support).
- 81. Over 100 people attended the pop-up sessions held at Victoria Park and Clifton Hill Depot during the consultation period.
- 82. A detailed summary of the Stage 2 feedback is provided in **Attachment 4**.
- 83. Except for the Location 3 Yambla Street proposal, there was a higher level of support than opposition for each treatment.
- 84. For most proposed treatments, there tended to be higher level of support for respondents who walk and cycle and respondents over 60 years of age, noting that these treatments seek to address barriers to walking and cycling and lowering of vehicle speeds at conflict locations.
- 85. For most proposed treatments, there tended to be a higher level of opposition from respondents who only drive and respondents under the age of 35. This level of opposition occurred even though there are limited changes to the functional layout and access of treated streets, except for the proposed changes to traffic restrictions on Yambla Street.
- 86. From the feedback provided, there tended to be a higher level of support for respondents who have experienced road safety issues at a particular location (and a higher level of opposition for those who have never experienced issues at a particular location).
- 87. For Location 3 Yambla Street, there was a high level of opposition from residents who live on streets where there could be a redistribution of traffic (Field Street and Aitken Street).
- 88. Approximately 20% of respondents indicated no support for any the proposed treatment.

#### Internal stakeholder engagement

- 89. The following Council teams were consulted during the study:
  - (a) Traffic Engineering;
  - (b) Strategic Transport;
  - (c) Engineering Services;
  - (d) City Works;
  - (e) Urban Design;
  - (f) Open Space; and
  - (g) Parking Management.

90. There was general support for the proposed treatments (or testing the principle of the proposed treatments with the community).
91. Comments provided by each team have been considered and mostly incorporated into the final proposed concept designs. Where internal comments provided are outside the scope of the study, minor changes have been made to ensure that there is no impact on any future proposals.

#### External stakeholder engagement

92. The recommended treatments have been discussed with representatives of DoT, and comments have been considered and incorporated where appropriate at this stage.

### Policy analysis

#### Alignment to Community Vision and Council Plan

93. The Yarra 2036 Community Vision is for a “vibrant, safe and inclusive environment”. This RSP delivers road safety, which is a key element of community safety. More specifically, the RSP aligns with:
  - (a) Theme 3: Community safety, by delivering safer outcomes on our streets for all users; and
  - (b) Theme 4: Environmental sustainability, by making zero-carbon travel by walking and cycling more attractive.
94. In Yarra’s Council Plan 2021-25, *Strategic Objective five: Transport and movement* seeks an outcome where *Yarra’s transport network is sustainable and recognises that streets are important shared public spaces. Transport and movement is accessible, safe and well connected.* Initiative f) of this strategic objective is to *Develop and deliver road safety studies.*

#### Climate emergency and sustainability implications

95. The recommended RSP will assist in decreasing the impact of severe weather events by increasingly the amount of greenery and minimising surface water run-off through implementing permeable surfaces and increasing tree canopy.
96. The recommended RSP and priority projects for advocacy to DoT improve pedestrian and cyclist safety and connectivity which will support sustainable transport options and usage, thus reducing transport-related carbon emissions.

#### Community and social implications

97. A copy of the recommended RSP will be referred to Ambulance Victoria, Metropolitan Fire Brigade and Victoria Police following this briefing. Due to access being maintained it is not considered that emergency services would have any objections to the plan.

#### Economic development implications

98. There are no economic implications associated with the recommended plan.

#### Human rights and gender equality implications

99. There are no identified human rights implications associated with the recommended plan.

### Operational analysis

#### Financial and resource impacts

100. Implementation of the recommended RSP has been estimated to cost \$864,900 (exclusive of GST).
101. Cost estimates and road safety rating for each recommended road safety treatment in the RSP, exclusive of GST, are provided in Table 4, below.

**Table 4. Cost estimates for recommended road safety treatments**

<b>RSS Location Number</b>	<b>Location</b>	<b>Estimated Cost (\$)</b>	<b>Road Safety Rating</b>
2	Yambla Street / Ramsden Street	\$76,500	5
4	Yambla Street / Roseneath Street / Gray Street	\$121,000	4.5
5	Gray Street / Noone Street / Trenerry Street	\$151,200	4.5
6	Trenerry Crescent between Gray and Maugie (interim treatment)	\$79,500	4.5
7	Trenerry Crescent / Maugie Street	\$98,900	5
8	Eastern Freeway Overpass	\$5,900	3
9	Trenerry Crescent / Abbott Street	\$71,700	3.5
10	Trenerry Crescent / Bath Street	\$84,000	4
11	Trenerry Crescent / Turner Street	\$11,600	3.5
12	Turner Street between Lulie and Trenerry	\$149,600	4
18	Field Street between Ramsden and Roseneath (study)	\$15,000	3
<b>Total Estimated Cost (\$)</b>		<b>\$864,900</b>	

102. Maintenance costs for ongoing maintenance for new infrastructure associated with these proposals is expected to be in the order of \$10,000 per annum. Officers will seek to budget for the necessary maintenance costs of any approved treatments as part of the budgeting process for 2023/24 and beyond.
103. Subject to Council approval of the RSP, design for one of the recommended treatments can commence this financial year, with \$30,000 already allocated for design in the 2022/23 Budget.
104. Subject to Council approval and allocation of funding in 2023/24, design of further recommended treatments could commence in 2023/24.
105. Subject to allocation of funding, delivery of the treatment at Yambla Street and Ramsden Street, which we are confident can be delivered relatively quickly, could commence in 2023/24.
106. Subsequent projects involving greater design complexity or requiring DoT approval are proposed to be commenced in following years to allow time for design and delivery issues to be resolved.
107. Opportunities to fund RSP treatments through other mechanisms will be considered including:
- (a) Future capital road works such as road reconstruction;
  - (b) Future utility service road works such as for water mains;
  - (c) Future private development contributions or public realm improvements;
  - (d) Australian Government Black Spot Program; and
  - (e) Other Victorian or Commonwealth Government funding opportunities.
108. The delivery of the treatments will need to be carried out over multiple years through a staged funding approach.
109. Without a recurring budget for delivery of RSP projects, endorsed treatments are subject to funding allocation each financial year, as part of the annual budget process.



### Legal Implications

110. Council has an overall obligation under the *Road Management Act 2004* to manage the local road network in a manner that gives due consideration to community safety. The proposals in this report do not undermine Council's ability to meet this obligation, and the treatments proposed for Clifton Hill to North Abbotsford could be seen to contribute to meeting this obligation.
111. Approval for all Major Traffic Control Items require DOT approval; approval for these will be sought from DoT.

### Conclusion

112. A RSP has been prepared for the Clifton Hill to North Abbotsford Corridor, in accordance with the *Road Safety Study Policy 2021*.
113. This RSP includes 10 recommended road safety treatments, and one further study of local of road safety for action by Council, with a cost estimate of \$864,900+GST. The RSP also includes 3 road safety items for advocacy to DoT.
114. Subject to approval and allocation of sufficient funding, implementation of the recommended RSP can commence immediately, with design of one treatment in 2022/23. Further design work and subsequent delivery of the proposed treatments is expected to commence in 2023/24 and be carried out in the coming years.

### RECOMMENDATION

1. That Council:
  - (a) endorse 10 recommended road safety treatments, and one further study identified in the Clifton Hill to North Abbotsford Corridor Road Safety Plan (RSP);
  - (b) instruct officers to undertake advocacy to DoT for the list of treatments identified in the Clifton Hill to North Abbotsford Corridor Road Safety Plan (RSP) which require DoT approval;
  - (c) notes that subject to Council approval and allocation of sufficient funding, implementation of the recommended RSP for the Clifton Hill to North Abbotsford Corridor can commence immediately with design of one treatment in 2022/23, with further design work and subsequent delivery of the proposed treatments to commence in 2023/24 and be carried out in the upcoming years, subject to discretionary funding bids; and
  - (d) inform the community of the road safety treatments that have been approved for implementation as part of the Clifton Hill to North Abbotsford RSS.

### Attachments

- 1 Attachment 1 - Clifton Hill to North Abbotsford Corridor Road Safety Study Consultant Report
- 2 Attachment 2 - Clifton Hill to North Abbotsford Corridor Road Safety Plan Concepts Issue
- 3 Attachment 3 - Stage 1 Community Engagement Findings Summary
- 4 Attachment 4 - Stage 2 Community Engagement Findings Summary

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

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<b>Reference</b>	D22/313052
<b>Author</b>	Ivan Gilbert - Group Manager Chief Executive's Office
<b>Authoriser</b>	Chief Executive Officer

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### Purpose

1. For Council to consider in conjunction with:
  - (a) the email letter from Best Hooper to Council dated 14 November 2022 and copied to Councillors on the following day (Best Hooper Letter – refer copy - **Attachment Two**); and
  - (b) the Report that formed part of the materials for Agenda Item 8.4 at Council's 15 November 2022 meeting - (Officer Report – refer copy - **Attachment One**).

### Critical analysis

#### History and background

2. The history of the matter is set out in the report found at **Attachment One**.

*Note that the report at Attachment One contains an attached engineering assessment erroneously dated 4 November 2021. This is a typographical error, and the assessment should have been dated 4 November 2022.*

#### Discussion

3. Council should consider and take into account all of the relevant matters set out in the Best Hooper Letter. As paragraph 4.10 of the Officer Report (**Attachment One**) makes clear, Councillors should approach this matter 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.
4. The principal matters raised in the Best Hooper Letter are addressed below:

#### Councillor Jolly Remarks

5. At paragraph 4 of the Best Hooper Letter reference is made to remarks attributed to Cr Jolly at a meeting of Council on 25 October 2022. Officers do not understand Cr Jolly to have made any remarks amid a substantive discussion of the issue.

#### Possessory Title

6. At paragraph 5 of the Best Hooper Letter it is asserted that the George Street Owners have a good possessory title to the section of the Hiatus Parcel referred to in that paragraph. In other words, is asserted that they would succeed in an adverse possession claim.
7. Ultimately this is a question that could only be determined by the Registrar of Titles or a Court. What is said in the Officer Report takes into account statements made by the Webb Street Owners that take issue with what is said by the George Street Owners in this regard. The Webb Street Owners have suggested that they have previously used the whole of the Hiatus Parcel.

#### Onus

8. Paragraph 10 of the Best Hooper Letter alleges that Council is 'picking sides' in what is a private dispute between and among landowners. Reference is made to paragraph 4.3.3(a) of the Officer Report (**Attachment One**), that refers to an onus on the George Street Owners.

9. The reference to an 'onus' should *not* be taken as reference to any onus that needs to be established in relation to the proposal before Council. There is no onus borne by anyone in relation to the proposal. Rather, Council needs to be satisfied that, in the circumstances, a declaration under section 204(1) of the Local Government Act 1989 is warranted.
10. The onus referred to in paragraph 4.3.3(a) of the Officer Report (**Attachment One**), was the onus that would need to be discharged if the George Street Owners made application for title by adverse possession (see above). If the Webb Street Owners suggested that they were going to make such an application a similar onus would need to be discharged by them.
11. Councillors should *not* consider using the power conferred by section 204(1) of the Local Government Act 1989 to 'settle' a private dispute between and among landowners. To do so would be to pursue an unauthorised purpose. Rather, as is indicated in the Officer Report (**Attachment One**), Council should consider whether a declaration would serve the objectives of the Act (see paragraph 5.2.2(v) of the Officer Report (**Attachment One**)). The fact that the background or factual matrix involves an element of conflict between and among private landowners should not matter.

#### Alternative Course

12. Paragraph 11 of the Best Hooper Letter notes that the Webb Street Owners could pursue their own legal action. That is true.
13. It does not, however, follow that Council is unable to utilise the power conferred on it by section 204(1) of the Local Government Act 1989. If Council is pursuing an authorised purpose, it cannot be 'usurping any independent judicial process' or 'leveraging its power...to afford one private resident's success over another'.

#### Photographs

14. Paragraph 12 of the Best Hooper Letter refers to a photograph involving a Volvo. The photograph is said to have been taken on 13 November 2022.
15. What is said and depicted should, of course, be taken into account by Council. Officers note, however, that it appears possible that the Volvo could have reversed the entire way down Sandeman Place.

#### Options

16. For Council to consider and determine.

### Community and stakeholder engagement

17. Refer Attachment 1.

### Policy analysis

#### Alignment to Community Vision and Council Plan

18. Refer Attachment 1.

#### Climate emergency and sustainability implications

19. Refer Attachment 1.

#### Community and social implications

20. Refer Attachment 1.

#### Economic development implications

21. Refer Attachment 1.

#### Human rights and gender equality implications

22. Refer Attachment 1.

## Operational analysis

### Financial and resource impacts

23. Refer Attachment 1.

### Legal Implications

24. Refer Attachment 1.

## Conclusion

25. Officers continue to hold the opinion that the Hiatus Parcel at the southern end of Sandeman Place, Fitzroy can and should be declared as a public highway. Nothing in the Best Hooper Letter has caused them to reverse the Recommendation contained in the Officer Report. Ultimately, of course, the matter is one for Council to determine.

## 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) and an email letter from Best Hooper dated 14 November 2022:
  - (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 Director City Works and Assets 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 (**Attachment One**) and paragraphs 1-3 of the Supplementary Officer Report.

## Attachments

- 1 Attachment 1 - Sandeman Place Report - 15 November 2022
- 2 Attachment 2 - BH letter re Sandeman Place

## 8.5 Proposed Discontinuance of Road abutting 79 Balmain Street, Cremorne

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<b>Reference</b>	D22/312358
<b>Author</b>	Bill Graham - Coordinator Valuations
<b>Authoriser</b>	Director Corporate, Business and Finance

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### Purpose

1. This report seeks Council's authority to:
  - (a) remove the road abutting 79 Balmain Street, Cremorne (**Road 1112**), being the land shown highlighted red on the site plan attached as Attachment 1 to this report (**Road**) from Council's Register of Public Roads pursuant to section 17(4) of the *Road Management Act 2004 (RMA)*; and
  - (b) commence the statutory procedures pursuant to the Local Government Act 1989 (**Act**) to consider discontinuing the Road.

### Critical analysis

#### History and background

2. The Road is part of the land contained in certificate of title volume 8258 folio 156 and is shown as a 5 square metre parcel on the title plan attached as Attachment 2 to this report.
3. Albano Constructions Pty Ltd ACN 005 144 758 (**Applicant**) is the registered proprietor of the following parcels of land abutting the Road, shown delineated blue on the site plan attached as Attachment 1 (**Site Plan**), comprising:
  - (a) the balance of the land contained in certificate of title volume 8258 folio 156, known as 79 Balmain Street, Cremorne; and
  - (b) the whole of the land contained in certificate of title volume 4933 folio 600, known as 81-83 Balmain Street, Cremorne (**81-83 Balmain Street**).
4. Together, the (**Adjoining Properties**).
5. The Applicant has requested that Council discontinue and sell the Road to it (**Proposal**).
6. The Applicant has agreed to pay Council's costs and disbursements associated with the proposed discontinuance of the Road, together with the market value (plus GST) for the transfer of the discontinued Road to the Applicant, as determined by the Act.

#### **Road**

7. The Road is:
  - (a) known to title as part of lot 1 on TP683700U (**Title Plan**);
  - (b) encumbered by carriage way and drainage easements in favour of 81-83 Balmain Street;
  - (c) constructed of bluestone; and
  - (d) listed on Council's Register of Public Roads.
8. As the Road is encumbered by a carriage way easement, which is a 'right of way' and therefore a 'road' for the purposes of the Act, Council has the power to consider discontinuing the Road. If discontinued the Road will vest in Council.
9. A copy of the manual search of the Road is attached as Attachment 3.

### **Adjoining Owners**

10. The northern boundary of the Road abuts a 30-centimetre-wide strip of land contained in certificate of title volume 1976 folio 107, which is registered in the name of John Turner since 22 December 1887 and is shown highlighted green on the Site Plan (**Green Parcel**).
11. The Green Parcel is entirely enclosed within the physical property boundaries of the adjoining property known as 118 Chestnut Street, Cremorne, being the land contained in certificate of title volume 4172 folio 301, which is registered in the name of the Applicant (**118 Chestnut Street**). 118 Chestnut Street is shown highlighted orange on the Site Plan.
12. As the Applicant (together with the previous owners) have occupied the Green Parcel for many years and is the registered proprietor of the Adjoining Properties (which are the only other properties that abut the Road). Council does not require the Applicant to seek the consent of any other adjoining owners to the Proposal.

### **Site Inspection**

13. A site inspection of the Road was conducted by Licensed Surveyors from Charter Keck Cramer on 6 July 2022. The Site inspection report notes that:
  - (a) the Road is constructed of bluestone;
  - (b) the entrance to the Road is obstructed by a roller door on the western end and a gate on the eastern end;
  - (c) the road provides pedestrian access to the Adjoining properties, but each of these properties have alternative access from Balmain Street;
  - (d) there is evidence of the Road being used, but only for pedestrian access to the Adjoining Properties; and
  - (e) the Road is not required for general public access.
14. A copy of the site inspection report is attached as Attachment 4 to this report.

### **Removal of Road from Council's Register of Public Roads**

15. It is considered that the Road is no longer reasonably required for general public use pursuant to section 17(4) of the RMA as the Road:
  - (a) only provides access to the Adjoining Properties; and
  - (b) is a dead end and does not connect as a throughfare to any other public roads.

### **Statutory/Public Authorities**

16. The following Statutory/Public authorities have been advised of the Proposal and have been asked to respond to the question of whether they have any existing assets in the Road which should be saved under section 207C of the Act: Greater Western Water, Melbourne Water, CitiPower, United Energy, Multinet Gas, Telstra, Optus, APA Gas, AusNet Services and Yarra City Council.
17. Council, Ausnet Services, Melbourne Water, CitiPower, United Energy, Multinet Gas, APA Gas and Greater Western Water have advised that they have no assets in or above the Road and no objection to the Proposal.
18. Optus has advised that it has no assets in or above the Road.
19. On 5 March 2022, Telstra advised that it has no assets located within or above the Road, and no objection to the Proposal, provided that the Applicant:
  - (a) calls Dial Before You Dig prior to any construction activities in the vicinity of Telstra's communication plant; and
  - (b) upon receipt of plans, obtains a Telstra accredited Asset Plant Locator to confirm the location of the plant.

### **Public Notice**

20. Before proceeding with the discontinuance, Council must give public notice of the Proposal in accordance with section 223 of The Act. The Act provides that a person may, within 28 days of the date of the public notice, lodge a written submission regarding the Proposal.
21. Where a person has made a written submission to Council requesting that he or she be heard in support of the written submission, Council must permit that person to be heard before a meeting of Council to hear the submissions giving reasonable notice of the day, time and place of the meeting.
22. After hearing any submissions made, Council must determine whether the Road is not reasonably required as a road for public use, in order to decide whether the Road should be discontinued.

### Options

23. Council has the option to discontinue the Road or not to discontinue the Road.

### **Community and stakeholder engagement**

24. Section 223 of the Act requires Council to give public notice of the proposal.

### **Policy analysis**

#### Alignment to Community Vision and Council Plan

25. Council' Management Policy in relation to Laneways, Passageways and Rights of Way in Yarra, adopted by Council in December 2019, states:

Laneways and Passageways that are not 'reasonably required for public use' are likely to include:

- (a) laneways and passageways that only provide access to adjacent properties and have no through connection (unless stormwater drainage function or identified legitimate community need); and
- (b) disused laneways and passageways.

#### Climate emergency and sustainability implications

26. There are no climate emergency or sustainability implications.

#### Community and social implications

27. There are no community or social implications.

#### Economic development implications

28. The Applicant has agreed to acquire the Road for its market value (plus GST).
29. In addition to the market value of the Road (plus GST), the Applicant has agreed to pay Council's costs and disbursements associated with the Proposal.

#### Human rights and gender equality implications

30. There are no human rights or gender equality issues.

### **Operational analysis**

#### Financial and resource impacts

31. There are no financial or resource impacts.

#### Legal Implications

32. If the Road is discontinued and sold to the Applicant, Council will require the Applicant to consolidate the title to the former Road with the title to the Adjoining Properties, within 6 months of the date of transfer of the Road to the applicant, at the Applicant's expense.

## Conclusion

33. It is proposed that Council should commence the statutory procedures pursuant to clause 3 of Schedule 10 of the Act to discontinue the Road and transfer the discontinued Road to the Applicant.

## RECOMMENDATION

1. That Council, acting under section 17(4) of the *Road Management Act 2004*, resolves that the road abutting 79 Balmain Street, Cremorne, being part of the land in certificate of title volume 8258 folio 156 (and shown as the 5 square metre parcel on the plan attached as Attachment 2 to this report) (**Road 1112**) be removed from Council's Register of Public Roads on the basis that the Road is no longer required for general public use for the reasons set out in the body of this report:
2. That Council acting under clause 3 of schedule 10 of the *Local Government Act 1989 (Act)*:
  - (a) resolves that the required statutory procedures be commenced to discontinue the Road;
  - (b) directs that, under sections 207A and 223 of the Act, public notice of the proposed discontinuance be given in 'The Age' newspaper;
  - (c) resolves that the public notice required to be given under sections 207A and 223 of the Act should state that if the Road is discontinued, council proposes to sell the Road to the adjoining owner for market value (plus GST) as determined by the Act;
  - (d) authorises the Valuations Coordinator to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to this matter; and
  - (e) that any submission made in accordance with section 223 of the Local Government Act 1989 that includes a request that the submitter or their representative to appear in person, be presented to a future meeting of Council and the submitters be invited to address Council in accordance with the Yarra City Council Governance Rules.

## Attachments

- 1 Attachment 1 - Site Plan
- 2 Attachment 2 - Title Plan
- 3 Attachment 3 - Title Search
- 4 Attachment 4 - Site Inspection Report



## 8.6 Council Meeting Schedule 2023

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<b>Reference</b>	D22/319854
<b>Author</b>	Rhys Thomas - Senior Governance Advisor
<b>Authoriser</b>	Group Manager Chief Executive's Office

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### Purpose

1. To formally adopt the meeting schedule for the 2023 calendar year.

### Critical analysis

#### History and background

2. The City of Yarra Governance Rules provide that:
  - (a) *“the dates and times of Ordinary Council Meetings will be fixed by Council from time to time”*; and
  - (b) *“Council may by resolution call, an Extraordinary Council Meeting.”*
3. In order to enable planning of key projects, it is beneficial to establish each year’s meeting schedule in advance.

#### Discussion

4. In developing a proposed meeting schedule, officers have taken into consideration the major meetings that need to be accommodated – Ordinary Council Meetings, meetings of the Planning Decisions Committee, Councillor Briefings and the annual Extraordinary Council Meeting to elect a Mayor and Deputy Mayor. It is only formal meetings of Council and the Planning Decisions Committee that require scheduling by Council resolution, so Councillor Briefings are not the subject of this report.
5. In developing a meeting schedule, there is value in developing a meeting cycle that can be simply understood, as well as occurring with sufficient frequency to enable Council decisions to be made in a timely fashion. In addition, there is value in scheduling each type of meeting on a fixed day of the week, as this assist sufficiently with developing consistent processes for the development and approval of reports, publication of agendas and minutes online and the deadlines for the receipt of public questions and registrations for public submissions at meetings.
6. In 2022, most Council meetings and all meetings of the Planning Decisions Committee were held on a Tuesday and followed a three-week cycle. It is proposed to continue this model in 2023, with meetings scheduled as follows:
  - (a) Week one – A Tuesday meeting of the Planning Decisions Committee at 6.30pm;
  - (b) Week two – A Tuesday Ordinary Council Meeting at 6.30pm; and
  - (c) Week three – A Tuesday Councillor Briefing at a time to be determined;with the cycle repeating again from the following week, with the exception of:
  - (d) Meeting cycle five, where the Ordinary Council Meeting will be held on Wednesday 26 April 2023 due to ANZAC Day falling on Tuesday 25 April 2023.
  - (e) Meeting cycle 14, where the Councillor Briefing will be held on Wednesday 8 November 2023 due to the Melbourne Cup falling on Tuesday 7 November 2023.
  - (f) Meeting cycle 16, where an additional meeting of the Planning Decisions Committee will be held in week one instead of a Councillor Briefing due to the proximity to Christmas and the anticipated planning workload at the end of the year.

7. The proposed meeting schedule will result in 16 Council Meetings and 17 meetings of the Planning Decisions Committee being scheduled in 2023. This is the same number as were scheduled in 2022.
8. In addition to the Ordinary Council meetings, it is necessary to schedule an Extraordinary Council Meeting to elect a Mayor and Deputy Mayor for 2023/2024. That meeting is scheduled by a Council resolution which sets out the date and time of the meeting, as well as the business to be transacted.
9. The Local Government Act 2020 requires that the election of a Mayor following the conclusion of a one-year term take place *“on a day to be determined by the Council that is as close to the end of the 1 year term as is reasonably practicable.”* The Deputy Mayoral election takes place on the same date.
10. Council’s practice is to schedule the Mayoral election for the Monday nearest to the conclusion of the Mayor’s term.
11. Assuming Council has successfully elected a Mayor at this meeting, the one-year anniversary of the Mayoral election will fall on Tuesday 28 November 2023. As a result, it is recommended that Council schedule the Extraordinary Council Meeting for 6.30pm on Monday 27 November 2023.
12. The report also recommends that the only matters to be dealt with at the Extraordinary Meeting in 2023 are the election of the Mayor and Deputy Mayor for the year ahead. It is proposed that Council change the practice of also appointing members to committees and external groups and setting the following year’s meeting schedule at that meeting and instead consider those matters at the following Ordinary Meeting. This enables the Extraordinary Meeting to take a more ceremonial format and dispenses with the formal meeting procedures to the extent possible.

#### Options

13. Council has the option of altering the proposed meeting arrangements by alternate resolution, or by a resolution at a subsequent meeting throughout the year.

#### **Community and stakeholder engagement**

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

#### **Policy analysis**

##### Alignment to Community Vision and Council Plan

15. In its Yarra 2036 Community Vision, Council articulated an objective for a community that is *“informed and empowered to contribute to the shared governance of Yarra, (where) decision-making is through access, inclusion, consultations and advocacy.”*
16. The City of Yarra Council Plan 2021-2025 commits Council to *“provide opportunities for meaningful, informed and representative community engagement to inform Council’s decision-making”* and to *“practice good governance, transparency and accountable planning and decision-making.”*
17. The establishment of a regular program of Council and Committee meetings underpins both the Yarra 2036 Community Vision and the City of Yarra Council Plan 2021-2025 and enables members of the public to attend and participate in the meetings in accordance with Council’s meeting procedures.

##### Climate emergency and sustainability implications

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

##### Community and social implications

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

### Economic development implications

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

### Human rights and gender equity implications

21. No human rights implications are presented in this report.

22. Following the council elections in October 2020, Victoria leads the country in terms of the proportion of female councillors, representing a total of 43.8 per cent of councillors. This is a marked increase from the previous high of 38 per cent, but still falls short of gender parity. While the more than half of Yarra's Councillors are currently female, successive studies have shown that the significant demands on Councillors has resulted in fewer women seeking election (see <https://www.5050vision.com.au/research-on-women-in-local-government.html>). Establishing a predictable and fixed meeting schedule is one way that Council can support its Councillors to juggle home, employment and community responsibilities and encourage a diverse range of candidates to nominate at Council elections.

## Operational analysis

### Financial and resource impacts

23. Council's Budget 2022-2023 contains a necessary provision for the conduct of the Council and committee meeting program as set out in this report.

### Legal Implications

24. The setting of the Council Meeting schedule takes place in accordance with Chapter Two of the City of Yarra Governance Rules. Relevantly:

- (a) Rule 9.1 provides that Council fixes the dates and times of Ordinary Council Meetings;
- (b) Rule 10.1 provides that Council may call an Extraordinary Council meeting;
- (c) Rule 10.3 provides that a resolution to call an Extraordinary Council meeting must specify the date and time of the meeting and the business to be transacted; and
- (d) Rule 9.2 provides that the CEO fixes the location of Council Meetings.

## Conclusion

25. It is recommended that Council adopt a meeting schedule for both Council and the Planning Decisions Committee throughout 2022.

## RECOMMENDATION

1. That Council adopt a 2023 meeting schedule comprising:
  - (a) Planning Decisions Committee meetings at 6.30pm on 24 January, 14 February, 7 March, 28 March, 18 April, 9 May, 30 May, 20 June, 11 July, 1 August, 22 August, 12 September, 3 October, 24 October, 14 November, 5 December, and 19 December 2023;
  - (b) Ordinary Council Meetings at 6.30pm on 31 January, 21 February, 14 March, 4 April, 26 April, 16 May, 6 June, 27 June, 18 July, 8 August, 29 August, 19 September, 10 October, 31 October, 21 November, and 12 December 2022; and
  - (c) an Extraordinary Council Meeting at 6.30pm on 27 November 2023 to elect a Mayor and Deputy Mayor for 2023/2024.

## Attachments

There are no attachments for this report.

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

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<b>Reference</b>	D22/308642
<b>Author</b>	Rhys Thomas - Senior Governance Advisor
<b>Authoriser</b>	Group Manager Chief Executive's Office

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### Purpose

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

### Critical analysis

#### History and background

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

#### Discussion

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

#### Options

5. No options are presented in this report.

### Community and stakeholder engagement

6. No community engagement has been undertaken.

### Policy analysis

#### Alignment to Council Plan

7. As part of Strategic Objective 6: Democracy and Governance, the City of Yarra Council Plan 2021-2025 contains the strategy "*Practice good governance, transparency and accountable planning and decision-making*".
8. The transparent appointment of authorised officer ensures compliance with the law and Council's commitment to good governance.

#### Climate emergency and sustainability implications

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

#### Community and social implications

10. This report has no community or social implications.

#### Economic development implications

11. This report has no economic development implications.

### Human rights and gender equality implications

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

### Operational analysis

#### Financial and resource impacts

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

#### Legal Implications

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

### Conclusion

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

### RECOMMENDATION

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

### Attachments

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

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