

Ordinary Meeting of Council Minutes

held on Tuesday 6 December 2016 at 7.00pm Richmond Town Hall

www.yarracity.vic.gov.au

1. Statement of Recognition of Wurundjeri Land

"Welcome to the City of Yarra."

"Yarra City Council acknowledges the Wurundjeri as the Traditional Owners of this country, pays tribute to all Aboriginal and Torres Strait Islander people in Yarra and gives respect to the Elders past and present."

2. Attendance, apologies and requests for leave of absence

Attendance

Councillors

- Cr Amanda Stone (Mayor)
- Cr Danae Bosler
- Cr Mi-Lin Chen Yi Mei
- Cr Misha Coleman
- Cr Jackie Fristacky
- Cr Stephen Jolly
- Cr Mike McEvoy
- Cr Daniel Nguyen
- Cr James Searle

Council officers

- Vijaya Vaidyanath (Chief Executive Officer)
- Ivan Gilbert (Group Manager CEO's Office)
- Andrew Day (Director Corporate, Business and Finance)
- Chris Leivers (Director Community Wellbeing)
- Bruce Phillips (Director Planning and Place Making)
- Joanne Murdoch (Group Manager Advocacy and Engagement)
- Fred Warner (Group Manager People, Culture and Community)
- Mel Nikou (Governance Officer)

3. Declarations of conflict of interest (Councillors and staff)

Nil

4. Confidential business reports

Item

- 4.1 Contractual matters
- 4.2 Contractual matters
- 4.3 Matters prejudicial to Council and/or any person

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 89 (2) of the *Local Government Act* 1989. In accordance with that Act, Council may resolve to consider these issues in open or closed session.

COUNCIL RESOLUTION

Moved: Councillor Coleman Seconded: Councillor Fristacky

- 1. That the meeting be closed to members of the public, in accordance with section 89 (2) of the *Local Government Act* 1989, to allow consideration of:
 - (a) contractual matters; and
 - (b) matters prejudicial to Council and/or any person.
- That all information contained within the Confidential Business Reports section of this agenda and reproduced as Council Minutes be treated as being and remaining strictly confidential in accordance with the provisions of sections 77 and 89 of the Local Government Act 1989 until Council resolves otherwise.

CARRIED

Following consideration of Confidential business, the meeting resumed in open session.

5. Confirmation of minutes

COUNCIL RESOLUTION

Moved: Councillor Fristacky Seconded: Councillor Jolly

That the <u>amended</u> minutes of the Ordinary Council Meeting held on Tuesday 22 November 2016 be confirmed.

CARRIED

Councillor Coleman abstained

6. Petitions and joint letters

Nil

7. Public question time

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Nil

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12. Notices of motion

Nil

13. Urgent business

Nil

6. Petitions and joint letters

Nil

7. Public question time

7.1 Ms Virginia Dods - Heritage

Question:

In relation to the community meeting that was held on Thursday 17 November, one of the topics raised was in relation to the heritage in the City of Yarra.

I would like to ask Council the following questions raised at the community meeting:

- 1. That Council provide a budget breakdown as to the funding currently being provided for the heritage advice through the employment of consultants and contractors, including those that appear at VCAT.
- 2. That Council assess the total value of heritage for use in statutory decision making in relation to development and for applications during strategic planning.
- 3. That all heritage advisors for Council be required to declare in writing any potential or actual conflict of interests with parties to the development before they become involved in discussions in relation to the proposed development.
- 4. That the Heritage Advisor's full report in relation to any planning application, rather than simply be an extract, as currently happens, be provided from the heritage advisor to Councillors for IDAC meetings and be placed on the Yarra Council website to ensure transparency and the public can review that report.
- 5. That heritage advice be sought in relation to planning applications at the commencement of the planning process.
- 6. That the community be notified as soon as a developer commences discussions with Council, and that the developer be encouraged to undertake genuine engagement with the community at an early stage of the proposal.
- 7. That all applications for development within heritage overlays be heard by Council's Internal Development Approvals Committee (IDAC).
- 8. That all applications for large development of properties within heritage overlays require a Conservation Management Plan before Council can accept the application.
- That all applications for development of properties within heritage overlays require a Conservation Management Plan (CMP) before Council can accept the application, which will reduce contestability and streamline decisionmaking.
- That the Heritage Advisory Committee members and others with an interest in heritage be asked to provide examples of effective models of heritage advisers placed within Councils.

Just to clarify, the timelines into receiving a response to the questions I have raised, going forward, do we need to have a representative from the Yarra Coalition Group present at the Council meetings to ensure the process continues?

Response:

The Mayor took the questions on notice and advised Ms Dods that the response will be provided to both the Yarra Residents Coalition Group and Heritage Advisory Committee.

The Chief Executive Officer also advised that some of the responses to the questions raised can be provided to the Heritage Advisory Committee that is meeting on Monday 12 December and that some of the other questions will need further consideration due to the strategic and policy issues. Councillors will also be provided with the responses to the questions (the questions with the straight forward responses i.e. budget breakdown). Going forward perhaps at the Heritage Advisory Committee it can be discussed on the best way forward on how and what would be the best way for the Yarra Residents Coalition Group to engage with Council and vice-versa rather than a representative attending a Council meeting.

7.2 Ms Diana Carroll, Protect Fitzroy North Group - 26-56 Queens Parade Development Question:

Given the time critical nature of the resolutions passed at the 22 November meeting regarding the 26-56 Queens Parade site and the significant work to be completed on a DDO prior to the 7 February 2017 meeting, can you please provide a summary of the key milestones that have been identified, such as appointment of external Consultants, draft reports, final reports, detailing due dates and Responsible Officers, and an overview of the progress to date.

Please advise the details of the legal team who have been appointed to represent Council at the VCAT hearing on 3 April 2017regarding the 26-56 Queens Parade site.

Response:

The Director Planning and Place Making advised that:

- (a) a firm called Hansen Partnership has been appointed as the Urban Design consultants and that occurred shortly after the Council meeting;
- (b) another firm called GJM Heritage have been appointed as heritage consultants, so the urban design analysis has commenced;
- (c) in terms of milestones, the first stage analysis is expected to be completed before Christmas, the second stage of that work and a draft planning control needs to be formed and shaped by the office and that will need to be resolved by late January;
- (d) officers will be reporting to Council to seek Council's position on that draft design development overlay early February and the Manager City Strategy is well across that and overviewing that study;
- (e) the actions from the Council resolution have been actioned and the Mayor has signed and sent out letters;
- (f) in relation to the applicant, information has been provided to the applicant, it is the applicants prerogative whether they wish to take on the matters raised, and as the resolution stated, 'that Council request', and this is what has occurred; and

(g) Council is working with Maddocks lawyers on the matter and they will be representing Council.

The Mayor advised that she had not received any response from the Minister for Planning from the letter and resolutions that were sent, and if no response was provided by tomorrow would follow up on the request.

7.3 Mr Herschel Landes - Planning Resolutions at the last Council Meeting

Question:

Will Council please verify for the record whether the resolutions that were past at the last Council meeting should or should not be construed as Council endorsement of the Yarra Resident Coalition Group motions and as such a statement of new Council policy settings without the proper process?

According to the report by Bianca Hall the Council has resolved to fight the development and spend something like \$100k in public money fighting "a case it must know will probably lose". Can Council confirm that it intends to spend \$100k?

Response:

The Mayor advised that Council's VCAT bills each year are very high as they are incurred through developments regardless of what the Council decision. Developments are so contentious that they end up at VCAT one way or another and so Council needs to spend money on legal representation.

In relation to the Queens Parade development, the Director Planning and Place Making advised that with legal representation and expert witnesses, the cost would range between \$100k to \$250k, with option 1 being about \$100k. Discussions are taking place with Maddocks lawyers, lawyers and expert witnesses will be commissioned and this is a standard practice in such matters.

The Mayor also advised that Council cannot just change its policy on Planning, the motions that were passed sought to support the communities request and to represent those to the Ministers. Council's planning policy cannot be changed without going through the appropriate processes. The motions raised by the community were raised to open up the discussion with the Minister and Department of Planning about some of the controls, and appropriate controls in Yarra for managing the 'rampant' development that is occurring, as Council has very few tools to control.

Councillor McEvoy also advised that one of the tools Council is seeking are more mandatory controls so that when Council's DDO's (Design and Development Overlays) are clarified on various areas, that there is certainty for both developers and residents.

7.4 Ms Judy Ryan, Residents Victoria Drug Solutions - Injecting Facilities

Question:

I refer to the Victoria Street community engagement project currently being undertaken by the City of Yarra. Residents are particularly interested in community engagement work that will be occurring from the end of February 2017. Residents believe that Councillors should have a solid understanding and appreciation of the facts and benefits of a medically supervised injecting centre in anticipation of a

possible trial in the Victoria Street precinct.

Will the Yarra City Council support a delegation of Councillors visiting Australia's only medically supervised injecting centre in Kings Cross, Sydney before the community engagement process commences at the end of February 2017? I think Councillors are very supportive but I believe that to actually sit in that space and experience it, would be life changing, I have experienced it and its had a major impact on how I feel about the issue.

Response:

The Group Manager People, Culture and Community advised that although he couldn't speak on behalf of Councillors visiting Kings Cross, as part of the community engagement program Councillors are actively involved and the intention is to involve the community in encouraging feedback on the array of matters that will assist in reducing or removing the issue of drugs in the street, particularly in Victoria Street. Safe injecting rooms are clearly high on Council's agenda.

Councillor Nguyen advised that a working group are in the process of inviting the Medical Director to a briefing in February and that he had been to the Sydney centre.

7.5 Mr John Hayhoe - MFB Guidelines re 26-56 Queens Parade Development

Question:

I understand that the MFB guidelines are not currently included in the Yarra Planning Scheme, although consideration is underway for the February Council meeting.

My question relates to the planning application (PLN16/0732) at 26-56 Queens Parade, that is for four, 4 storey townhouses at the end of a dead end lane, the laneway is 2.9 metres at its narrowest point and generally about 3.1 metres otherwise and clearly doesn't take the MFB guidelines into account.

Has Council considered what it's potentially liability could be if it approves such a development while ignoring the MFB fire safety guidelines and a tragedy were to unfortunately occur?

What progress has been made to date with the Council resolution to investigate the MFB fire safety guidelines as requested by Council at the meeting on 18 October and have officers sort support from the various Councils mentioned in those minutes?

Response:

The Director Planning and Place Making advised that there was a similar request in September and a report on the site was provided to Council in October. The report specified that the MFB guidelines were not a planning matter and also addressed the assertion that Port Phillip, Banyule, Moreland and possibly Darebin Council's had that in their planning scheme, that is not correct. The minutes from the October meeting has Council requesting for a report in February and that report will be provided however, I would like to point out that the guidelines are not part of the planning consideration.

A Municipal Building Surveyor or a private surveyor needs to have regard for fire aspects and safety and there are vast areas within the city that access to a fire truck would be limited.

Cr Fristacky - What scope is there for Council to raise the issues regarding the integration with this site with the major development given the fact that the only access to this site is down those laneways? Whereas if the site was dealt with

together with 26-56 Queens Parade with access through that site to the island at the rear, you could resolve some of these problems. What scope is there to have that matter considered with the larger application that is before VCAT?

The Director Planning and Place Making advised the large site is subject to a failure appeal that's set down for seven days commencing 3 April 2017, whether that goes ahead or not, who knows, that is up to the applicant. An integrated development is always better than a non-integrated one, I would agree however we cannot compel that, it may be something that the applicant may consider and something that staff cannot enforce upon them. In terms of the resolution and encouraging the applicant, this will be raised with the Manager Statutory Planning and that can also be part of the conversation with the applicant, but we can't take it beyond that.

8. General business

8.1 Reduce Family Violence

Public Submission:

Ms Jemima Aitchison - Country Women's Association - Collingwood

COUNCIL RESOLUTION

Moved: Councillor Jolly Seconded: Councillor Coleman

"That Council resolve:

- (a) Officers prepare a report on the various measures Council can take to reduce family violence and respond to the needs of victims, as per Recommendation 94 of the recent Royal Commission into Family Violence;
- (b) such report to be submitted in February 2017 and to:
 - include a list of the current services available across Yarra and their ability to offer accessible housing, counselling and legal services to victims of family violence;
 - (ii) include officers' views on the suitability of <u>152 Hoddle Street</u> and the surrounding precinct <u>and any other suitable sites in Yarra</u> to include family violence services and act as a service hub;
 - (iii) outline options for Council to directly employ a team of family violence caseworkers to help victims navigate services available to them; and
- (c) Officers identify sites across Yarra that could be suitable for public housing developments to provide long-term housing for survivors of family violence."

CARRIED

9. Delegates' reports

Nil

10. Questions without notice

10.1 Councillor Coleman - Questions in relation to previous minutes

Question:

I would like a response on the previous question asked of the previous meeting, specifically answers to questions 7.3 and 7.6.

Response:

The Group Manager Chief Executive's Office advised that he had left a few messages with Ms Toner as he wanted to clarify what she was seeking and in relation to the question on public question time, a report will be presented to Council on 20 December 2016.

11.1 Health and Wellbeing Plan Advisory Committee - appointment of community members to the committee and revisions to the existing Terms of Reference

Trim Record Number: D16/167921

Responsible Officer: Coordinator Social Policy and Research

RECOMMENDATION

- 1. That Council note the report of officers in relation to the Health and Wellbeing Advisory Committee.
- 2. That Council, having considered the nominations received for the three community member positions on the HWPAC, Council appoint the following applicants to the committee:

(a)				
`					

- (b) _____
- (c) _____
- 3. That the successful and non-successful nominees be advised in writing of the outcome of their nomination.
- 4. That Council endorse the revised Terms of Reference outlined in Attachment 1.

COUNCIL RESOLUTION

Moved: Councillor Jolly Seconded: Councillor Coleman

- 1. That Council note the report of officers in relation to the Health and Wellbeing Advisory Committee.
- 2. That Council, having considered the nominations received for the three community member positions on the HWPAC, Council appoint the following applicants to the committee:
 - (a) Suzana Talevski;
 - (b) Conor Sibly; and
 - (c) Kate Rowe.
- 3. That the successful and non-successful nominees be advised in writing of the outcome of their nomination.
- 4. That Council endorse the revised Terms of Reference outlined in Attachment 1.

CARRIED

11.2 Strategic Community Infrastructure Framework including the Richmond South Community Infrastructure Neighbourhood Plan

Trim Record Number: D16/164878

Responsible Officer: Director Corporate, Business and Finance

RECOMMENDATION

1. That Council adopt the Strategic Community Infrastructure Framework and Richmond South Community Infrastructure Neighbourhood Plan.

COUNCIL RESOLUTION

Moved: Councillor Fristacky Seconded: Councillor McEvoy

- 1. <u>That Council endorse the Strategic Community Infrastructure Framework with the following amendments:</u>
 - (a) population forecasts alongside other information such as local development knowledge and demographic make-up will be used to inform each Community Infrastructure

 Neighbourhood Plan and noted in section 4.1;
 - (b) Heritage and its impact on Community Infrastructure Planning noted in section 4.3; and
 - (c) <u>consideration is given to the differences in density across neighbourhoods and service</u> catchments.
- 2. <u>That Council endorse the Richmond South Community Infrastructure Neighbourhood Plan with the following amendments:</u>
 - (a) correct any reference to Carlton to Carlton North; and
 - (b) <u>include reference to Council's continued advocacy for the use of Ryan's reserve for sport and recreation purposes for the public benefit.</u>
- 3. That Council notes that an additional 9 community infrastructure neighbourhood plans will follow.

CARRIED

11.3 Proposed Discontinuance of Road at rear of 247-253 Johnston Street, Abbotsford

Trim Record Number: D16/165535

Responsible Officer: Chief Financial Officer

RECOMMENDATION

- 1. 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 at the rear of 247-253 Johnston Street, Abbotsford, shown as Lots 1 and 2 on the title plan that is Attachment 1 to this report (**Road**);
 - (b) directs that, under sections 207A and 223 of the Act, public notice of the proposed discontinuance be given in the "Melbourne Weekly Review" 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 owners for its market value (plus GST) as determined by the Act; and
 - (d) authorises Bill Graham Valuations Co-ordinator 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.
- 2. Further, should no submissions be received, Council:
 - (a) resolves that, having followed all the required statutory procedures pursuant to section 189, 207A and 223 of the Act pursuant to its power under clause 3 of Schedule 10 of the Act and being of the opinion that the Road, is not reasonably required for public use, it discontinues the Road;
 - (b) directs that a notice pursuant to the provisions of clause 3(a) of Schedule 10 of the Act be published in the *Victoria Government Gazette*;
 - (c) directs that, once discontinued, the Road be transferred to the adjoining Owners for no less than the market value (plus GST) as determined by the Act; and
 - (d) directs that the CEO sign any transfer or transfers of the Road and any other documents required to be signed in connection with the discontinuance of the Road and its subsequent transfer to the adjoining owners.

Public Submission

Ms Virginia Dods addressed Council on the matter.

COUNCIL RESOLUTION

Moved: Councillor Jolly Seconded: Councillor Coleman

- 1. 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 at the rear of 247-253 Johnston Street, Abbotsford, shown as Lots 1 and 2 on the title plan that is Attachment 1 to this report (**Road**);
 - (b) directs that, under sections 207A and 223 of the Act, public notice of the proposed discontinuance be given in the "Melbourne Weekly Review" Newspaper, the Herald Sun, a Public Notice in the laneway and on social media channels;
 - (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 owners for its market value (plus GST) as determined by the Act; and

- (d) authorises Bill Graham Valuations Co-ordinator 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.
- 2. Further, should no submissions be received, Council:
 - (a) resolves that, having followed all the required statutory procedures pursuant to section 189, 207A and 223 of the Act pursuant to its power under clause 3 of Schedule 10 of the Act and being of the opinion that the Road, is not reasonably required for public use, it discontinues the Road;
 - (b) directs that a notice pursuant to the provisions of clause 3 (a) of Schedule 10 of the Act be published in the *Victoria Government Gazette*;
 - (c) directs that, once discontinued, the Road be transferred to the adjoining Owners for no less than the market value (plus GST) as determined by the Act; and
 - (d) directs that the CEO sign any transfer or transfers of the Road and any other documents required to be signed in connection with the discontinuance of the Road and its subsequent transfer to the adjoining owners.

CARRIED

11.4 Proposed Discontinuance of road abutting 13 and 15 Brunswick Street, Fitzroy.

Trim Record Number: D16/173242

Responsible Officer: Chief Financial Officer

RECOMMENDATION

- 1. 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 abutting 13 and 15 Brunswick Street, Fitzroy, which shown marked 'Lots 1 and 2' on the title plan attached as Attachment 1 to the report (**Road**);
 - (b) directs that, under sections 207A and 223 of the Act, public notice of the proposed discontinuance be given in the "Melbourne Weekly Review" 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 Owners for its market value (plus GST);
 - (d) authorises Bill Graham Valuations Co-ordinator 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) hears any submissions received pursuant to section 223 of the Act.

Public Submission

Mr Michael Gynatsis addressed Council on the matter.

COUNCIL RESOLUTION

Moved: Councillor Coleman Seconded: Councillor Fristacky

- 1. 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 abutting 13 and 15 Brunswick Street, Fitzroy, which shown marked 'Lots 1 and 2' on the title plan attached as Attachment 1 to the report (**Road**);
 - (b) directs that, under sections 207A and 223 of the Act, public notice of the proposed discontinuance be given in the "Melbourne Weekly Review" Newspaper, the Age, the Herald Sun, all of Yarra's social and digital media and a Public Notice in the laneway:
 - (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 Owners for its market value (plus GST);
 - (d) authorises Bill Graham Valuations Co-ordinator 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) hears any submissions received pursuant to section 223 of the Act.

CARRIED

Councillor McEvoy abstained

Declarations of Office

Section 63(2) of the Local Government Act 1989 requires that in taking office after a general election, each Councillor must take the oath (or affirmation) of office date and sign it before the presence of the Chief Executive Officer. The Act then requires that these documents them be included in the minutes of the Council.

The signed declarations are included in these Minutes on the following pages.



A person elected to be a Councillor is not capable of acting as a Councillor until the person has:

- · taken the oath of office; and
- read the Councillor Code of Conduct and made a declaration stating that they will abide by the Councillor Code of Conduct.

Affirmation

Name	Signature	CEO Signature	Date
Cr Danae Bosler	Moser.	Menora	30/11/16



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Oath

Name	Signature	CEO Signature	Date
Cr Mi-Lin Chen Yi Mei	Men yilen	llegages	21/11/16

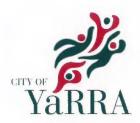


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Oath

Name	Signature	CEO Signature	Date
Cr Misha Coleman	mhih	llepays	22/11/16



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- · taken the oath of office; and
- read the Councillor Code of Conduct and made a declaration stating that they will abide by the Councillor Code of Conduct.

Oath

Name	Signature	CEO Signature	Date
Cr Jackie Fristacky	ym Diotacky	Majora	22/11/16



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- read the Councillor Code of Conduct and made a declaration stating that they will abide by the Councillor Code of Conduct.

Affirmation

Name	Signature	CEO Signature	Date
Cr Stephen Jolly	EPETAL	10020048	23/11/16



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- read the Councillor Code of Conduct and made a declaration stating that they will abide by the Councillor Code of Conduct.

Affirmation

Name	Signature	CEO Signature	Date
Cr Mike McEvoy	4	1000 ports	21/11/16



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Oath

Name	Signature	CEO Signature	Date
Cr Daniel Nguyen	Br.	llegaya	21/11/16



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- taken the oath of office; and
- read the Councillor Code of Conduct and made a declaration stating that they will abide by the Councillor Code of Conduct.

Affirmation

Name	Signature	CEO Signature	Date
Cr James Searle	laster	llegoups	21/11/16



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- taken the oath of office; and
- read the Councillor Code of Conduct and made a declaration stating that they will abide by the Councillor Code of Conduct.

Affirmation

Name	Signature	CEO Signature	Date
Cr Amanda Stone	Amounds & Stac	les out	20/11/16

Conclusion	
The meeting concluded at 8.38pm.	
Confirmed Tuesday 20 December 2016	
	Mover
	Mavor