



Ordinary Meeting of Council Agenda

**to be held on Tuesday 7 March 2017 at 7.00pm
Fitzroy Town Hall**

Disability - Access and Inclusion to Committee and Council Meetings:

Facilities/services provided at the Richmond and Fitzroy Town Halls:

- Entrance ramps and lifts (off Moor Street at Fitzroy, entry foyer at Richmond)
- Hearing loop (Richmond only), the receiver accessory may be accessed by request to either the Chairperson or the Governance Officer at the commencement of the meeting, proposed resolutions are displayed on large screen and Auslan interpreting (*by arrangement, tel. 9205 5110*)
- Electronic sound system amplifies Councillors' debate
- Interpreting assistance (*by arrangement, tel. 9205 5110*)
- Disability accessible toilet facilities

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Order of business

- 1. Statement of recognition of Wurundjeri Land**
- 2. Attendance, apologies and requests for leave of absence**
- 3. Declarations of conflict of interest (Councillors and staff)**
- 4. Confidential business reports**
- 5. Confirmation of minutes**
- 6. Petitions and joint letters**
- 7. Public question time**
- 8. General business**
- 9. Delegates' reports**
- 10. Questions without notice**
- 11. Council business reports**
- 12. Notices of motion**
- 13. Urgent business**

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

Anticipated attendees:

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)
- Joanne Murdoch (Director - Advocacy and Engagement)
- Bruce Phillips (Director - Planning and Place Making)
- Jane Waldoock (Assistant Director - Planning and Place making)
- Guy Wilson-Browne (Director - City Works and Assets)
- Fred Warner (Group Manager – People, Culture and Community)
- Mel Nikou (Governance Officer)

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

4. Confidential business reports

Nil

5. Confirmation of minutes

RECOMMENDATION

That the minutes of the Ordinary Council Meeting held on Tuesday 21 February 2017 be confirmed.

That the minutes of the Special Council Meeting held on Tuesday 21 February 2017 be confirmed.

6. Petitions and joint letters

7. Public question time

Yarra City Council welcomes questions from members of the community.

Public question time is an opportunity to ask questions, not to make statements or engage in debate.

Questions should not relate to items listed on the agenda. (Council will consider submissions on these items separately.)

Members of the public who wish to participate are to:

- (a) state their name clearly for the record;
- (b) direct their questions to the chairperson;
- (c) ask a maximum of two questions;
- (d) speak for a maximum of five minutes;
- (e) refrain from repeating questions that have been asked previously by themselves or others; and
- (f) remain silent following their question unless called upon by the chairperson to make further comment.

8. General business

9. Delegates' reports

10. Questions without notice

11. Council business reports

Item		Page	Rec. Page	Report Presenter
11.1	Global Covenant of Mayors for Climate and Energy	7	11	Michael Oke – Sustainability Unit Manager
11.2	Amendment C185 - 462-482 Swan Street Richmond - Consideration of Panel Report	26	37	David Walmsley – Manager City Strategy
11.3	Proposed Discontinuance of Road abutting the rear of 203-205 Fitzroy Street, Fitzroy	168	171	Bill Graham – Valuations Coordinator
11.4	Neighbourhood Houses and Learning Centres Partnerships Strategy 2014 - 2017 Annual Progress Report	187	194	Aldo Malavisi - Community Partnerships Unit Manager
11.5	Appointment of Authorised Officers - Planning and Environment Act 1987	202	203	Rhys Thomas

Public submissions procedure

The public submission period is an opportunity to provide information to Council, not to ask questions or engage in debate.

When the chairperson invites verbal submissions from the gallery, members of the public who wish to participate are to:

- (a) state their name clearly for the record;
- (b) direct their submission to the chairperson;
- (c) speak for a maximum of five minutes;
- (d) confine their remarks to the matter under consideration;
- (e) refrain from repeating information already provided by previous submitters; and
- (f) remain silent following their submission unless called upon by the chairperson to make further comment.

12. Notices of motion

Item		Page	Rec. Page	Report Presenter
12.1	Notice of Motion No. 5 of 2017 - City of Melbourne Proposed Local Law	204	206	Mike McEvoy - Councillor
12.2	Notice of Motion No. 6 of 2017 - Richmond High School and Melbourne Girls College	207	208	Daniel Nguyen - Councillor

13. Urgent business

Nil

11.1 Global Covenant of Mayors for Climate and Energy

Trim Record Number: D17/2107

Responsible Officer: Environment Coordinator

Purpose

1. On 20 December 2016, Councillors resolved “*That Council receive a report in the first quarter of 2017 on the implications of Yarra joining the Global Covenant of Mayors for Climate and Energy*”.
2. This report responds to this request, presenting the implications of joining the Global Covenant of Mayors for Climate and Energy (Global Covenant), and recommended next steps.

Background

3. The Global Covenant commenced officially on January 1, 2017. It brings together two formerly separate networks as one: the Compact of Mayors (international) and Covenant of Mayors (European Union).
4. With the merging of the international Compact of Mayors and the EU-based Covenant of Mayors over 7,100 committed cities from 119 countries will form the largest global network of councils leading actions to respond to climate change.
5. The Mayor of Yarra received an invitation from ICLEI to join the Global Covenant in November 2016, and councillors requested that officers prepare this report on the implications of joining on 20 December 2016.
6. There are 13 Australian councils that are members of the Global Compact, including, in the inner Melbourne region, Melbourne, Moreland, Mornington Peninsula and Port Phillip Councils.
7. The principles of the new Global Covenant are as follows.
 - (a) **Local Governments are Key Contributors:** The Global Covenant of Mayors works to organise and mobilise cities and local governments to be active contributors to a global climate solution;
 - (b) **City Networks as Critical Partners:** Local, regional and global city networks are core partners, serving as the primary support for participating cities or regions; and
 - (c) **A Robust Solution Agenda:** Focusing on those sectors where cities have the greatest impact, the Global Covenant supports ambitious, locally relevant solutions, captured through strategic action plans that are registered, implemented and monitored and publicly available.
 - (d) **Reducing Greenhouse Gas Emissions and Fostering Local Climate Resilience:** The Global Covenant of Mayors emphasises the importance of both climate change mitigation and adaptation, as well as universal access to clean energy.
8. The Global Covenant is intended to assist local government agencies around the world to achieve their goals in climate change mitigation and adaptation by:
 - (a) providing technical guidance;
 - (b) supporting the establishment of open and compatible data as well as reporting, aggregating and monitoring of results at the global level;
 - (c) facilitating coherence amongst regions, ensuring the exchange of and visibility of best practices, promoting compatible methods and common objectives, and
 - (d) serving as a common global voice and outreach, promoting the Covenant at all levels.

9. ICLEI Oceania is currently inviting Australian councils to join the Global Covenant. Councils joining the Global Covenant will share their progress on the transition to a low-carbon and resilient future by reporting through the *Carboun Climate Registry*.
10. ICLEI Oceania is also funded to provide support and advice to Councils to assist them to join the Global Covenant and achieve compliance.
11. Council officers have worked with ICLEI Oceania to show that Yarra is already well placed against the required steps for compliance. Table 1 summarises this, highlighting that Yarra has already met most of the necessary criteria, and estimates resource implications to become fully compliant.

Table 1: work required to become compliant

Required steps for compliance	Current status	Estimated resource implications
1. Letter of Intent	Not started. Standard letter using template provided by ICLEI.	Minimal, once off.
2. Community greenhouse emission inventory	Incomplete. Council and YEF do have community emissions inventories, however these are in part out-dated and/or incomplete against the set <i>Global Protocol for Community-Scale Greenhouse Gas Emission Inventories</i> (GPC). Significant work and expertise is required to collate the Yarra data and bring it into alignment with this standard.	Once off fee \$2,950-4,950 (exc GST) to contract an external party to create a GPC-compliant inventory. Nb: Fee is not in current/draft budget.
3. Hazards Assessment (<i>Climate Change Risk Assessment</i>)	Complete. Yarra has undertaken a Climate Change Risk Assessment as part of the 2013 Climate Change Adaptation Plan. This would meet this criterion once entered into the Carboun Climate Registry (Adaptation Plan due for renewal 2017/2018).	Nil (able to be undertaken as part of business as usual)
4. Greenhouse reduction target (for both Council and community)	Complete. Council has Greenhouse Reduction Targets for both Council operations and the whole municipality (due for review in 2017/18).	Nil (able to be undertaken as part of business as usual)
5. Climate vulnerability assessment	Complete. Risk Assessment completed as part of Adaptation Plan will meet this requirement.	Nil (able to be undertaken as part of business as usual)
6. Climate Action Plan	Likely Complete. Council and YEF have various greenhouse plans and strategies and should meet compliance standards. However, a new Climate Action Plan is due for renewal in 2017/18 and would ensure compliance.	Nil (able to be undertaken as part of business as usual)
7. Climate Adaptation Plan	Complete. Yarra's Climate Change Adaptation Plan was completed in 2013 and would meet this requirement (due for renewal 2017/2018).	Nil (able to be undertaken as part of business as usual)

12. ICLEI Oceania is working in partnership with third-party consultants (Ironbark Sustainability) to support Australian Councils to complete registration and reach compliance with the Global Covenant. A key component of this work that can be undertaken by consultants is the creation of a municipal greenhouse inventory that complies with the Global Protocol for Community-Scale Greenhouse Gas Emission Inventories (GPC). This service would attract a once-off fee of \$4,950 (ex GST).
13. ICLEI is currently offering to offset this cost by contributing \$2,000 towards member Councils' joining costs. This offer closes at the end of March. The full GPC-Compliant Community Inventory and Report Package includes:
 - (a) A **GPC-compliant inventory** to be uploaded onto the Carboun Climate Registry (cCR) reporting platform or inputted directly into cCR (excel format);

- (b) An **Activity Data spreadsheet** with all the data and sources (excel format);
 - (c) A **Community Greenhouse Gas Emissions Inventory Report** containing information, references, activity data, assumptions, inputs, insights, charts, emission factors and other relevant data;
 - (d) **Assistance with Global Covenant compliance** and incorporation of broader Global Covenant requirements within the inventory and Report;
 - (e) **Independent verification** by ICLEI Oceania; and
 - (f) A **follow-up GPC-compliant inventory** (and Activity Data) in 12 months' time to incorporate improvements to data availability and methodology.
14. As a leader in climate action at the local level, Council is in a position to share lessons from Yarra's progress towards a low carbon future. Yarra would also be invited to attend local and international events and opportunities to share lessons and collaborate with other leading Councils on local climate action. The Mayor and Council would be acknowledged for their contribution to the Global Covenant.

External Consultation

15. Council officers have consulted ICLEI Oceania, Moreland City Council (who have recently joined the Covenant, using a consultant's services to achieve compliance), and the Yarra Energy Foundation. Yarra Energy Foundation broadly supports Yarra's joining the Global Covenant, and would look to support Yarra to reach compliance where possible. However, due to resource constraints YEF is not at this point in time, able to commit to complete any of these steps on behalf of Council, unless otherwise agreed and funded.

Internal Consultation (One Yarra)

16. Governance and Communications Units have been alerted to the potential, for Yarra to join the Global Covenant and future implications/opportunities.

Financial Implications

17. There is no financial cost associated with joining the Global Covenant, nor are there any ongoing membership fees.
18. It is, however, recommended that Council engage a consultant to assist with registration and compliance through the GPC-Compliant Community Inventory and Report Package. This would incur a one-off fee of \$4,950 plus GST, (reduced to \$2,950) this financial year, if Yarra submits a letter of intent by the end of March.

Economic Implications

19. There are no significant economic implications, however, being recognised internationally as a leading sustainable city may further enhance Yarra's reputation as a place for sustainable business operators to locate.

Sustainability Implications

20. Joining the Global Covenant provides Council with the opportunity to contribute to a global movement of local government bodies taking action on climate change, adding to the strength of its voice in advocating to other levels of government. It would also bring Council's carbon reporting into alignment with this international standard, and offer avenues for the sharing of best practice and promotion of Yarra's achievements.

Social Implications

21. As well as climate mitigation, the Global Covenant also fosters climate adaptation and resilience, offering Yarra the opportunity to build on existing work to ameliorate the impacts of climate change on Yarra's vulnerable communities.

Human Rights Implications

22. Both climate change mitigation and adaptation have implications for human rights, in that climate change are already having severe human rights impacts on communities around the world. Contributing to the Global Covenant provides Yarra with the opportunity to contribute to climate mitigation and adaptation and thus contributing to protecting human rights.

Communications with CALD Communities Implications

23. Joining the Global Covenant would not require specific communications with any sectors of the Yarra community.

Council Plan, Strategy and Policy Implications

24. Joining the Global Covenant aligns with the Council Plan (2013-2017) Strategic Objective *Ensuring a sustainable Yarra* which states that “*Reducing Yarra’s environmental footprint is critical – including a target to become carbon neutral by 2020*” and includes the following two strategic priorities under reducing greenhouse gases:
- (a) *Initiate and implement strategies to reduce Council’s carbon emissions and energy use; and*
 - (b) *Support the community to reduce greenhouse gas emissions.*
25. Joining the Global Covenant also support, through the sharing of best practice, the objectives of the Yarra Environment Strategy (2013-2017), including:
- (a) *Objective 3.4 Carbon Neutral Yarra - Reduced greenhouse emissions from across the municipality, towards carbon neutral by 2020;*
 - (b) *Objective 3.7 Climate Change Resilient Communities (Preparing Yarra’s community to better handle and strengthen their response to future climatic conditions); and*
 - (c) *Objective 4.2 Best Practice Carbon Management (Reducing Council energy use and greenhouse gas emissions from its own activities, and becoming the most aware, energy efficient and self-reliant local government in Australia).*

Legal Implications

26. The requirements of the Covenant are not legally binding. If Yarra fails to meet the compliance standards within three years, it will simply cease to be a member and will no longer be entitled to promote itself as a member.

Other Issues

27. Nil

Options

28. Option 1 (recommended) - Join now and contract an external consultant to assist with achieving compliance. This would consolidate Yarra’s position as one of Australia’s leading local government bodies in the area of climate change mitigation and adaptation.
29. Option 2 - Join now without external assistance other than that offered by ICLEI. This option is not recommended as internal staff do not have capacity to undertake this work.
30. Option 3 - Decline to join the Global Covenant.

Conclusion

31. Joining the Covenant would provide Yarra with the opportunity to contribute to the international movement of government bodies driving global climate solutions, and to promote its position as a leader in climate change action in Australian local government. These benefits can flow from the point of joining, and Council would have three years to become fully compliant with the required standards, so there is no advantage in delaying the time of joining. It is anticipated that the benefits would outweigh the minor cost of consultants and staff time to obtain and maintain compliance.

RECOMMENDATION

1. That the Officer report regarding the Global Covenant of Mayors for Climate and Energy be noted.
2. That Council, noting the benefits of the Covenant, determine to join the Global Covenant of Mayors for Climate and Energy.
3. That the CEO arranges for the appointment of an appropriate external consultant to assist staff in meeting the registration and compliance aspects required for joining the Global Covenant of Mayors for Climate and Energy as noted in this report (before the end of March this year).

CONTACT OFFICER: Sally MacAdams
TITLE: Sustainability Officer
TEL: 9205 5769

Attachments

- 1 Charter for the Global Covenant of Mayors for Climate and Energy
- 2 Global Covenant of Mayors Aggregate Report - part1
- 3 Global Covenant of Mayors Aggregate Report - part2
- 4 Global Covenant of Mayors Aggregate Report - part3
- 5 Global Covenant of Mayors for Climate Energy Fact Sheet
- 6 Global Covenant of Mayors Press Release

Attachment 1 - Charter for the Global Covenant of Mayors for Climate and Energy

'Charter' for the Global Covenant of Mayors for Climate and Energy

The Global Covenant of Mayors for Climate and Energy, is a global coalition of cities and local governments with a shared long-term vision of promoting and supporting voluntary action to combat climate change and move to a low-carbon, resilient society, based on the following core principles:

- **Local Governments are Key Contributors:** The Global Covenant of Mayors works to organize and mobilize cities and local governments to be active contributors to a global climate solution.
- **City Networks as Critical Partners:** Local, regional and global city networks are core partners, serving as the primary support for participating cities or regions.
- **A Robust Solution Agenda:** Focusing on those sectors where cities have the greatest impact, the Global Covenant supports ambitious, locally relevant solutions, captured through strategic action plans that are registered, implemented and monitored and publicly available.
- **Reducing Greenhouse Gas Emissions and Fostering Local Climate Resilience:** The Global Covenant of Mayors emphasizes the importance of both climate change mitigation and adaptation, as well as universal access to clean energy.

The Global Covenant of Mayors will bring together, under one single umbrella, "Regional Covenants," that - subject to the overriding objectives mentioned above - shall be organized at the regional level according to organizational principles and methods that best suit each given region. Cities and local governments may participate in the Global Covenant of Mayors either through a "Regional Covenant" or by directly engaging with the Global Covenant of Mayors Secretariat as long as no "Regional Covenant" exists.

The Global Covenant shall seek to assist these regions in achieving their objectives by:

- providing technical guidance to the Regional Covenants, inter alia by sharing best practices;
- supporting the establishment of open and compatible data as well as reporting, aggregating and monitoring of results at the global level;
- facilitate coherence amongst the Regional Covenants, ensuring the exchange of and give visibility to best practices, promoting compatible methods and common objectives, and
- serve as a common global voice and outreach, promoting the Covenant at all levels.

Through their participation in the Global Covenant of Mayors, and with the support of founding partners, cities and local governments will:

Attachment 1 - Charter for the Global Covenant of Mayors for Climate and Energy

- promote their ambitious shared vision worldwide, to become low-carbon or carbon-neutral, adapted to climate change, resilient for future changes, and providing universal access to clean and affordable energy;
- consolidate the leading role for cities and local governments in tackling climate change, based on consistent and transparent data collection and reporting with a connection to the United Nations
- develop the institutional political processes that make effective action possible by embedding climate action into municipal processes, structures and policies;
- move towards transparent standard procedures and methodologies to increase international accountability; and
- promote systems and actions for increased access to clean energy consistent with a low-carbon vision.

Local authorities joining the Global Covenant of Mayors will:

- commit to achieving or surpassing the relevant national commitment(s) regarding climate change mitigation and adaptation and energy access to all, which are made, inter alia, in the context of the United Nations' Paris Agreement through the Nationally Determined Contributions or the Sustainable Development Goals.
- commit to adopting a comprehensive plan, to be reviewed and monitored, to meet the commitments made,
- engage in regional initiatives, and explore involvement in global Covenant activities, such as city exchanges, peer guidance and mobilizing other local governments, and
- agree to make key data available to the Global Covenant via regular reporting, which is needed to enable cities to compare their success with others worldwide and so that the Global Covenant can report on overall progress in achieving the aims of the Global Covenant.

Attachment 2 - Global Covenant of Mayors Aggregate Report - part1



**GLOBAL COVENANT
of MAYORS for
CLIMATE & ENERGY**

FROM COMMITMENTS TO ACTION: **THE IMPORTANCE OF AN INTEGRATED APPROACH TO CITY CLIMATE FINANCE**

The United Nations Framework Convention on Climate Change reached an historic agreement in Paris in 2015 as nations of the world came together to create binding commitments to address climate change.

Cities have long been willing partners in advancing the mission embodied by the Paris Agreement, and have organized their efforts through a multitude of global and regional city networks and initiatives, local action, and collective response.

The recent launch of the **Global Covenant of Mayors for Climate & Energy (GCoM)** solidifies a framework to bring the contributions of cities and local governments under the umbrella of the UNFCCC. The aim is to assess the impact of city and local government efforts to advance the Paris Agreement, while also identifying areas where they could do more through collaboration and with support from other levels of government and the private sector.

The Global Covenant of Mayors brings together the **Compact of Mayors** and the **EU Covenant of Mayors** – the world's two primary initiatives for cities – and will play an instrumental role in creating a new paradigm for city climate leadership and climate finance. The GCoM is comprised of more than 7,100 cities across 6 continents and 119 countries and will enlarge city participation while streamlining the process for more cities to showcase their action – helping to further quantify the impact cities are having on curbing global GHG emissions, and establishing an accountability and reporting framework to measure progress over time. It will also convene stakeholders, especially in climate finance, to develop and pilot real solutions for cities.



**Countries where the Compact
has a presence**



**Countries where the Covenant
has a presence**



**Countries where the Compact and
the Covenant have a presence**

Attachment 3 - Global Covenant of Mayors Aggregate Report - part2



The Paris Agreement is an historic milestone. It irreversibly paves the way for a global transition to low-emission, climate-resilient and green economies. Cities and local governments are critical partners in the implementation of the Paris Agreement, which calls on cities and sub-national authorities to scale up their efforts to reduce emissions, build resilience and promote regional and international cooperation.

A critical element of the successful outcome in Paris was establishing mechanisms and national commitments for greater climate-friendly investment – particularly in the world's developing regions. Coupled with these commitments, recent analysis highlights the need to mobilize more than **\$90 trillion to build climate-friendly, sustainable infrastructure.**¹

Cities will be at the forefront of this investment; over 54% of the world's population live in cities today, with that figure rising to 66% (nearly 6.4 billion individuals) by 2050.² Cities now account for more than 70% of global energy-related GHG emissions and projections rise as global populations further concentrate in urban centers. New infrastructure will not only play a critical role in improving the quality of life in cities, it will be instrumental in solving the climate crisis and achieving a carbon neutral world.

Improving city-level financial access will increase investment flows into cities and other urban areas, and will be a critical lever to unlocking the potential of cities. It will re-shape the economics of development and reinforce sustainable infrastructure as a stronger investment over high-carbon polluting options.

Cities are already more climate friendly, per person and per dollar of wealth created than the world as a whole. According to some studies, "the average carbon footprint of households living in the center of large, population-dense urban cities is about 50% below average, while households in distant suburbs are up to twice the average."³

An integrated approach for sustainable, climate-resilient and vibrant cities for both climate change mitigation and adaptation has the potential to multiply the benefits and, therefore, make more efficient use of available financing. In particular, advantages of climate and energy measures often extend beyond the environment to include social, health and economic benefits (including the creation of jobs and growth in local economies) making cities more attractive for investment.



Bogotá's **TransMilenio** bus rapid transit (BRT) system shows how capital providers and city planners were able to finance and implement a low-carbon project at an unprecedented scale. Since 2000, TransMilenio has **grown from 14km to 112km of dedicated bus lanes** that now carry 2 million passengers per day. By successfully aligning all stakeholders early, TransMilenio adopted a business model that drew investment from local sources and established a public-private partnership to manage operations. With integrated, collaborative planning and all sectors taking part in financing and implementing the BRT project, Bogotá has become healthier and more sustainable in the long-term. The Colombian capital is proof that potentially game-changing solutions exist. However, cities need the mechanisms to explore flexible business models that take into account their unique needs.

¹ World Bank – Current projections (<http://data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS>)

² The New Climate Economy: The Sustainable Infrastructure Imperative – http://newclimateeconomy.report/2016/wp-content/uploads/sites/4/2014/08/NCE_2016Report.pdf

³ <http://news.berkeley.edu/2014/01/06/suburban-sprawl-cancels-carbon-footprint-savings-of-dense-urban-cores/>

Attachment 3 - Global Covenant of Mayors Aggregate Report - part2

Unlocking a sustainable path for cities will allow them to accelerate their impact. By 2050, implementing sustainable urban infrastructure choices in buildings, transit, energy and waste could save \$17 trillion on energy costs alone.⁴ Through initiatives like the GCoM, cities are showing their potential and making real progress to greatly accelerate the world's achievements towards the legally binding global commitment to create a carbon neutral world this century.



In June 2014, Johannesburg successfully issued a green bond. The bond, with a value of US\$143 million, was 1.5 times oversubscribed and will finance a wide range of green infrastructure projects across the energy, water, waste and transport sectors, including:

- 42,000 smart meters
- 22.5GW of solar water geysers
- Biogas to energy
- Energy efficiency
- Upgrading the water network
- Landfill gas to energy
- Separation at source recycling
- 150 new dual fuel buses
- 30 buses converted to biogas/diesel

Many of the projects to be financed by the green bond will help the city to reduce its emissions. As part of the process of labeling the bond 'green', the city will report to investors on the emissions reduced as a result of the projects financed.

According to The New Climate Economy, a **76% increase in annual infrastructure spending over the next 15 years is necessary** to replace aging infrastructure in developing economies and to accommodate higher growth and structural changes in emerging market and developing countries.

Cities are finding unique ways to achieve their climate commitments. Innovative multi-level governance structures are instrumental in delivering climate and energy policies. Some cities are working in close collaboration with their regional partners, as well as with bottom-up civil society institutions, financing institutions, cooperatives and businesses, small and large – to create a broad spectrum coalition of the ambitious.

The **Unione dei comuni dell'entroterra Idruntino** in Italy, comprised of the towns of Bagnolo del Salento, Cannole, Cursi and Palmariggi, has set a joint target of achieving a 35% reduction in emissions by 2020 through the EU Covenant of Mayors. As a collective, they have built a common vision, prepared a joint emissions inventory and developed a comprehensive climate action plan that includes a number of highlights, including:

1. **Common Land-use planning**, especially the deployment of renewables
2. **Harmonized building codes**
3. **Common procedures** for green public procurement
4. **Establishment of a joint energy agency** to promote building energy efficiency measures across jurisdictions.

These solutions alone are not enough to meet the climate challenges the world faces. Nations must find new ways to empower the world's cities. Empowerment – combining appropriate legal autonomy with adequate finance and institutional capacity – will lead the global movement towards steadily and rapidly accelerating climate ambition. Meeting these aims will require access to local data and capacity to assess how best to transition to a sustainable future. For some cities, institutional frameworks and access to capital are already in place to achieve these ambitious aims.



The city of Zagreb, Croatia, an EU Covenant of Mayors signatory has replaced the city's bus fleet with 160 clean fuel and energy-efficient buses, including 100 low-floor biodiesel and 60 compressed natural gas (CNG) vehicles. Equipped with air conditioning, CCTV, and emergency buttons, the new fleet is safer and more comfortable, without consuming more energy. **This project has improved overall tram performance, shifted the city's modal split, and improved the city's air quality.** Sulfur dioxide and harmful particulate emissions have reduced by 27.47 and 22.28 percent, respectively since 2010.

⁴ The New Climate Economy: Seizing the Global Opportunity – http://newclimateeconomy.report/2015/wp-content/uploads/sites/3/2014/08/NCE-2015_Seizing-the-Global-Opportunity_web.pdf

Attachment 4 - Global Covenant of Mayors Aggregate Report - part3

Most of the world's urban growth from 2015 to 2050, however, will occur in urban areas which are either constrained by inadequate autonomy, or, even more commonly, by a lack of basic fiscal and implementation capacity.

Increasing access to finance in the world's cities and urban areas may mean improving local capacity, bolstering local financial systems, solidifying partnerships between different sectors and levels of government and, in some cases, providing municipalities with the appropriate level of autonomy to maximize their contributions towards the global goal of a carbon neutral economy. Successfully implementing these items is a necessity to meeting our 2050 goals. It will take time to identify the policy frameworks and financial mechanisms that will catalyze action. National governments, as partners, will have a significant role to play in helping cities meet this challenge. **Filling in the largest gaps in the financial and implementation capacity of cities to use their current authority to maximize climate progress can be achieved much faster if the global community leverages events like COP22 for serious dialogue.**

RESULTS FROM THE COVENANT OF MAYORS



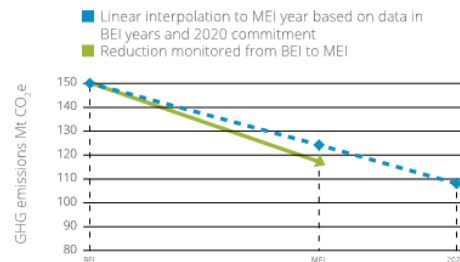
Recently released results from the Covenant of Mayors: Greenhouse Gas Achievements and Projections Report highlight the initiative's momentum. Based on the last monitoring report, cities affiliated with the Covenant of Mayors **have achieved an overall reduction of 23% between the baseline year and this study.** The drop in emissions is significant especially in the Buildings sector, where the Covenant observes a **27% decline in emissions.** Current achievements can be traced to the implementation of effective national and local policies focused on:

- Improving energy efficiency in buildings
- Increasing the share of renewable energy in local production
- Integrating district energy systems
- Gradual transformation towards more sustainable transportation

Cities that are part of the Covenant have committed to an overall estimated reduction of 254 Mt CO₂e by 2020, making them on pace to achieve a 27% reduction. This is seven percentage points higher than the initiative's minimum requirement. Emissions reduction from European Union Covenant signatories (98% of the total Covenant signatories and 31% of EU population) may represent approximately **31% of the EU28 GHG emission reduction target by 2020 compared to 2005.**

The Covenant also enhances the role of **subnational regional authorities** as key to implement climate change policies in a multilevel governance approach. The involvement of these actors is empowering – besides larger cities – also small and medium-sized cities and towns to develop and implement sustainable energy and climate action plans. Cities and towns of all sizes are in a privileged position to meet the climate change challenge by fostering the participation of citizens and building partnerships with local stakeholders.

	Baseline Emission Inventory (BEI)	Monitoring Emissions Inventory (MEI)	Absolute reduction of GHG emissions compared to BEI
GHG emissions inventories [t CO ₂ e/y]	149,824, 616	116,060,439	23%
Per capita GHG emissions [t CO ₂ e/cap*y]	6.13	4.55	26%



EU-28 2005 GHG emissions [Mt CO ₂ e]	5,199
EU-28 2020 GHG emission reduction target [Mt CO ₂ e]	778
CoM EU-28 2020 estimated GHG emission reduction [Mt CO ₂ e]	239
CoM potential contribution to EU-28 2020 GHG emission reduction target [%]	31%

Attachment 4 - Global Covenant of Mayors Aggregate Report - part3

RESULTS FROM THE COMPACT OF MAYORS



COMPACT of MAYORS

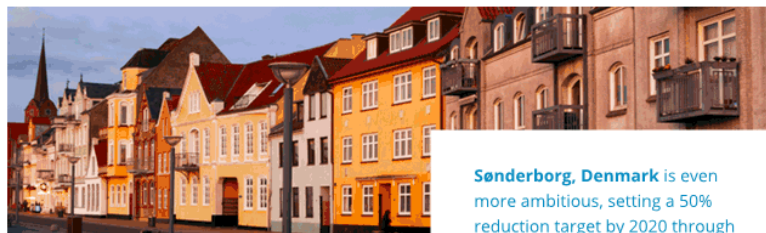
Projections released today for cities committed to the Compact of Mayors reveal that they are on track to reduce their emissions to an average of 2.63 tons per capita, for a cumulative reduction of 34.2 Gt CO₂e, by 2050.⁵

These cities have, through the Compact of Mayors, and its founding networks, committed themselves to measure, plan, and be accountable to meeting the targets they set. Through the commitments they have already made voluntarily, Compact of Mayors cities are delivering on the goals of the Paris Agreement. The potential of existing commitments made by Compact of Mayors cities are equivalent to **reductions of nearly 1 billion tons of CO₂e emissions annually by 2030 (or 11.6 billion tons cumulatively between 2010 and 2030).**⁶

This represents **26% of what is possible globally** through direct city action – and even more would be possible if cities partner with other levels of government and the private sector.⁷

596 cities are now committed to the Compact of Mayors⁸ and, with these commitments, cities are pledging to measure and track their climate risk and GHG emissions, set ambitious targets to reduce them, and establish data-based plans to meet those targets.

While many of these targets “match” those that national governments will make through their Nationally Determined Contributions or NDCs, others are setting much more ambitious targets now. Seventy-nine committed cities have set long-term climate targets beyond 2030.



Sønderborg, Denmark is even more ambitious, setting a 50% reduction target by 2020 through a re-imagining of its role as city and a catalyst for action. It seeks to position itself as a strong leader in demonstrating new energy and climate solutions through development of technology, deployment of new financing mechanisms and implementation of learning platforms. In fact cities – big and small – are joining forces to meet the challenge. **Johannesburg, South Africa seeks to achieve a 65% reduction by 2040. Port Phillip, Australia has a 50% target by 2020.**



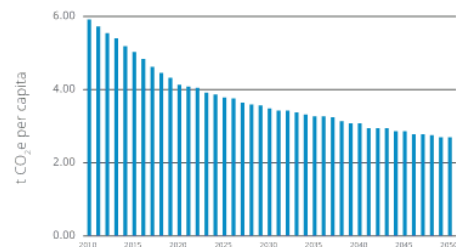
⁵ Global Impact of the Compact of Mayors - <http://impact.compactofmayors.org/>

⁶ Global Impact of the Compact of Mayors - <http://impact.compactofmayors.org/>

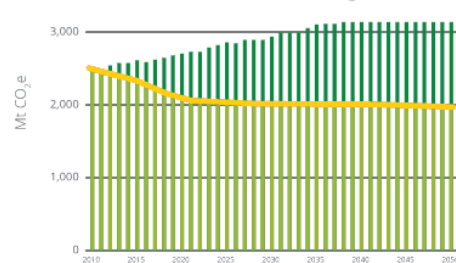
⁷ Stockholm Environment Institute: Advancing Climate Ambition: Cities as Partners in Global Climate Action - <https://www.sei-international.org/mediamanager/documents/Publications/Climate/C40-Bloomberg-SEI-2014-Cities-Climate.pdf>

⁸ 596 cities were committed at the time of this analysis (6 November 2016). Since then cities continue to commit and current count is over 600.

t CO₂e per capita



Aggregate City Emissions



Attachment 4 - Global Covenant of Mayors Aggregate Report - part3



2015 will go down in history as the year in which, at Paris, the world committed to solve the climate crisis. This year, 2016, must become the year in which the world provided its cities with the financial tools to contribute to a climate safe future. This is a significant opportunity to achieve the world's mid-century challenge.

A CALL TO ACTION ON MUNICIPAL INFRASTRUCTURE

At Habitat III, 85 of the world's cities with more than 650 million residents – 10% of the world's population – called for cities to be given appropriate, equitable and direct access to climate finance through institutions like the World Bank. The reality is that many cities have larger populations, greater climate emissions and climate risk, and stronger administrative and financial capacities than many nations which belong to the UN.

The world community must establish mechanisms by which cities willing to meet appropriate standards for credit-worthiness, transparency and administrative integrity should be eligible for finance on the same basis as nations or provinces with equal capacity. Climate finance should be provided on the basis of need and merit, not on the basis of administrative hierarchy. The evidence is clear. Most of the responsibility for meeting the needs for sustainable infrastructure – 70% at least – falls on cities. With responsibility must come authority. **The Global Covenant of Mayors for Climate & Energy will actively engage with regional and national partners to ensure that cities are empowered to implement plans and take actions to reduce CO2 emissions, secure access to adequate financial mechanisms to meet this challenge, and that they model principles of transparency, measurement and accountability.**



Created in 2008 to implement the EU's 2020 climate and energy targets, the **Covenant of Mayors** has firm commitments of over 6800 cities in 58 countries resulting in Action Plans with an investment of over €110 billion. In 2015, Commissioner Miguel Arias Cañete has launched the integrated Covenant of Mayors incorporating also adaptation to climate change and extending it to the 2030 timeframe. Covenant signatories voluntarily pledge action to support implementation of the European Union 40% greenhouse gas-reduction target by 2030 and the adoption of a joint approach to tackling mitigation and adaptation to climate change. The EU Covenant of Mayors offices worldwide are funded by the European Commission and currently operated by the Council of European Municipalities and Regions (CEMR), Climate Alliance, Energy Cities, EUROCIITIES and the European Federation of Agencies and Regions for Energy. A target-oriented reporting and monitoring framework accompanies signatories towards their climate goals.



The **Compact of Mayors** is a global coalition of mayors and city officials pledging to reduce local greenhouse gas emissions, enhance resilience to climate change, and to track their progress transparently. The Compact was launched in September of 2014 by UN Secretary-General Ban Ki-moon and his Special Envoy for Cities and Climate Change, Michael R. Bloomberg. The Compact was activated under the leadership of the global city networks – C40 Cities Climate Leadership Group (C40), ICLEI-Local Governments for Sustainability (ICLEI) and the United Cities and Local Governments (UCLG) – and with support from UN-Habitat, the UN's lead agency on urban issues.



Attachment 5 - Global Covenant of Mayors for Climate Energy Fact Sheet



The Global Covenant of Mayors for Climate & Energy Fact Sheet

- | |
|---|
| <ul style="list-style-type: none"> • Name: Global Covenant of Mayors for Climate & Energy • Total number of cities committed: 7,100+ • Total number of countries represented: 119 • Total population represented: 600 million, or 8% of the global population |
|---|
-
- Six months after cities were crucial voices in shaping and advocating for a strong Paris Climate Agreement in December 2015, the world's cities are today ready to announce that they will work together to take bold climate action as part of a new first-of-its-kind, and now the world's largest, global coalition of cities leading in the fight against climate change.
 - The new coalition, **The Global Covenant of Mayors for Climate & Energy**, formally brings together the Compact of Mayors and the Covenant of Mayors, the world's two primary initiatives of cities to assist cities and local governments in their transition to a low-carbon economy, and demonstrate their global impact.
 - Cities are significant in the implementation of the Paris Agreement. They represent major opportunities to reduce climate emissions and enhance climate resilience. Cities innovate faster, and are less hampered by politics than many nation states in their efforts to move towards clean energy and low carbon infrastructure. And cities do even better when they collaborate.
 - The creation of a single, global merged initiative to represent the impact of cities in this effort is a historic and powerful response by the world's urban leadership to the climate challenge. More and more cities across the globe are heeding the call to act from fellow local leaders, and their response could not be more urgent as nations begin the work of meeting the Paris climate goals.
 - **The joining of these two forces will create the broadest global coalition committed to climate leadership**, building on the commitment of 7,100+ cities from six continents and 119 countries representing more than 600 million residents, already participating in the EU Covenant of Mayors and the Compact of Mayors.
 - The merged initiative will provide a central platform that brings together relevant data on cities' energy and climate actions reported to the current EU Covenant platform and the platforms supporting the Compact of Mayors (CDP Cities and the Carbonn Climate Registry), allowing to compare cities' and regions' achievements to other cities and regions all around the world, and make them publicly available through a new Global Covenant of Mayors for Climate & Energy website, to be launched by January 2017.
 - Aligning efforts will allow for **greater collaboration** between cities across the world, bridging gaps and building connections, as well as increasing funding to support and empower cities in their actions.
 - The Global Covenant of Mayors for Climate & Energy will allow for comparison between cities' and regions' achievements all around the world, as well as global aggregation of the impact of city actions.
 - This historic merger will **harness the convening powers and global resources behind** both organisations, as well as global city network partners, namely, C40, ICLEI, UCLG, and regional networks including Eurocities, Energy Cities and Climate Alliance.

Attachment 5 - Global Covenant of Mayors for Climate Energy Fact Sheet

- **The Global Covenant of Mayors for Climate & Energy** is an international coalition of local and regional authorities with a shared long-term vision of promoting and supporting voluntary action to combat climate change and move to a low-carbon society, based on the following core principles:
 - **Local Governments are Key Contributors:** The Global Covenant of Mayors for Climate & Energy works to organize and mobilize local, regional and state governments to be active contributors to a global climate solution.
 - **City Networks as Critical Partners:** Local and global city networks are core partners, serving as the primary support for participating cities or regions.
 - **A Robust Solution Agenda:** Focusing on those sectors where cities have the greatest impact, the Global Covenant of Mayors for Climate & Energy supports ambitious, locally relevant solutions, captured through strategic action plans that are registered, implemented and monitored and publicly available.
 - **Reducing Greenhouse Gas Emissions and Fostering Local Climate Resilience:** The Global Covenant of Mayors for Climate & Energy emphasizes the importance of climate mitigation and adaptation, as well as universal access to energy.
- **The Global Covenant of Mayors for Climate & Energy** will continue to galvanize cities and local governments in setting more ambitious climate reduction goals, taking accelerated action to meet those objectives, and measuring their progress.
- **This single initiative will have a broader reach and impact on more cities around the world.** It will increase efforts to build even greater momentum for city-level climate action, and provide greater clarity for cities and ensure more consistent and comparable data – giving investors the ability to see that the actions cities have been taking are having lasting, verifiable, and most importantly, **investable** impact.

Mission and Logistics of The Global Covenant of Mayors for Climate & Energy

- Cities participating in this initiative commit to targets that will eventually be more ambitious than those of their respective national government, as defined through Nationally Determined Contributions (NDCs) under the Paris Climate Agreement. For those cities that have already made commitments through either the Covenant or the Compact, current commitments will be honored for a period of at least 2 years.
- The merged effort will establish a Board of Directors, co-Chaired by the UN Secretary-General's Special Envoy for Cities and Climate Change Michael R. Bloomberg and European Commission Vice President Maroš Šefčovič. The remaining seats will be held by global mayors representing both the full reach of the world's regions as well as global networks of cities. With the help of a global Secretariat, the board will set, approve and monitor strategic direction and priorities to coordinate and support the work of the cities across multiple regions, through regional "Covenants" or facilitate their setting up where these do not yet exist.
- The new initiative will include an advisory group of global financial institutions to ensure that cities are attractive for investors, as well as an advisory group of global and regional city networks. This group should ensure connectivity to international and local efforts, to connect technical assistance and engagement to the broader global context.
- On June 23, a transition will begin to manage all activities of this coalition under the guidance of the new Board, supported by a Global Secretariat. A "Founders' Council," including representatives from global city networks and the European Commission will provide recommendations on strategic and technical issues for the Board. The new initiative will go "live" by January 1, 2017. The months leading up to January 1 will be used to engage in a dialogue with cities and their networks.

Attachment 5 - Global Covenant of Mayors for Climate Energy Fact Sheet

ABOUT THE COMPACT OF MAYORS:

- Launched in 2014 at the Secretary-General's Climate Summit by UN Secretary-General Ban Ki-moon and Michael R. Bloomberg, UN Secretary-General's Special Envoy for Cities and Climate Change, and activated under the leadership of the global city networks – C40 (led by Mayor Paes of Rio), ICLEI (led by Mayor Park of Seoul) and UCLG (led by Mayors Topbas of Istanbul and Hidalgo of Paris), [the Compact of Mayors](#) now has commitments from more than 512 cities from 6 continents and 94 countries representing over 433 million people or 5.98% of the global population.

ABOUT THE COVENANT OF MAYORS:

- Created by the European Commission in 2008 after the adoption of the 2020 EU Climate and Energy Package, [the EU Covenant of Mayors](#) puts cities and regions at the forefront of climate action representing more than 6,800 cities in 57 countries. Signatories pledge to reduce CO₂ emissions by at least 40% by 2030, to adopt an integrated approach to tackling mitigation and adaptation to climate change, and to tackle energy access.

Attachment 6 - Global Covenant of Mayors Press Release



EU Covenant of Mayors and Compact of Mayors launch largest global coalition of cities committed to fighting climate change

Brussels, 22 June 2016

Global Covenant of Mayors for Climate & Energy will combine efforts and leadership to accelerate climate action at the local level worldwide.

Today, the world's two primary city-led climate change and energy initiatives, the EU Covenant of Mayors and the Compact of Mayors, announced the formation of a new, first-of-its-kind global initiative of cities and local governments leading in the fight against climate change. This single initiative will create the largest global coalition of cities committed to climate leadership, building on the commitments of more than 7,100 cities from 119 countries and six continents, representing more than 600 million inhabitants, over 8% of the world's population. The launch of the [Global Covenant of Mayors for Climate & Energy](#) comes six months after the historic Paris climate change conference, where cities were crucial voices in shaping and advocating for a strong global agreement, and is a historic and powerful response by the world's local leaders to the urgent climate challenge.

The Covenant of Mayors was launched in 2008 by the European Union after the adoption of the 2020 European Union Climate and Energy Package. The Compact of Mayors was launched in September 2014 by UN Secretary-General Ban Ki-moon, UN Secretary-General's Special Envoy for Cities and Climate Change Michael R. Bloomberg and mayors from global city networks C40, ICLEI and UCLG. Both initiatives have supported participating local governments in setting ambitious climate reduction goals, taking ambitious action to meet those objectives, and measuring their progress publicly and transparently.

The new Global Covenant of Mayors for Climate & Energy will be the world's largest coalition of mayors promoting and supporting voluntary action to combat climate change and move to a low-carbon economy.

European Commission Vice President Maroš Šefčovič said: *"The EU Covenant of Mayors shows that when mayors share a vision of a low-carbon future and roll up their sleeves, things get done. Bottom-up and close to the citizens: that is the strength of the European Covenant. As of today, this will become the strength of the Global Covenant of Mayors for Climate & Energy, a coalition that is truly unique on the global scene. Never before, so many cities joined forces, eager to inspire each other and committed to collectively take the path to a low-carbon, resilient society."*

"Today, the world's cities are uniting their efforts to fight climate change behind a single global organization, something that has never before happened," said UN Secretary-General's Special Envoy for Cities and Climate Change Michael R. **Bloomberg**, who will Co-Chair the new Global Covenant of Mayors for Climate & Energy. *"In unity there is strength, and this new Global Covenant of Mayors for Climate & Energy will help accelerate the progress cities are making and magnify their influence on the global stage. This is a giant step forward in the work of achieving the goals that nations agreed to in Paris."*

Attachment 6 - Global Covenant of Mayors Press Release



By aligning city-led efforts, the Global Covenant of Mayors for Climate & Energy will allow for greater collaboration between cities across the world, bridging gaps and building connections, as well as increasing funding to support and empower city action on sustainable energy and climate change. This merger will harness the convening and investment powers of the European Union and Bloomberg Philanthropies, as well as the critical global city network partners of each initiative, including C40, ICLEI, UCLG, Eurocities, Energy Cities and Climate Alliance – allowing for a stronger presence and visibility of local authorities in the on-going work of the UN Framework Convention on Climate Change.

The new initiative will provide a common platform that brings together relevant data on cities' energy and climate actions reported to the current EU Covenant platform and the platforms supporting the Compact of Mayors (CDP Cities and the carbonn Climate Registry), allowing for comparison of cities' achievements to other cities and towns all around the world, and make them publicly available through a new Global Covenant of Mayors website, to be launched by January 2017.

Combining the two initiatives will streamline and consolidate efforts to increase and capture the collective impact of city action and build even greater momentum for locally-led climate action. A single coalition will also simplify city participation, freeing cities to focus on a single commitment with both local relevance and global impact. It will provide greater clarity for cities and ensure more consistent and comparable data — giving investors the ability to see that the actions cities have been taking are having lasting, verifiable, and most importantly, investable impact. One of the political priorities of the Juncker Commission's [Energy Union strategy](#) is resilient and forward looking climate policy that facilitates transition to a low-carbon, secure and competitive economy. The new initiative will be an important tool for achieving this goal.

For more information, please visit the Compact of Mayors [website](#), and the Covenant of Mayors [website](#).



**COMPACT
of MAYORS**

About the Compact of Mayors

The Compact of Mayors is a global coalition of mayors and city officials pledging to reduce local greenhouse gas emissions, enhance resilience to climate change, and to track their progress transparently. The Compact was launched in September of 2014 by UN Secretary-General Ban Ki-moon and his Special Envoy for Cities and Climate Change, Michael R. Bloomberg. The Compact was activated under the leadership of the global city networks — C40 Cities Climate Leadership Group (C40), ICLEI – Local Governments for Sustainability (ICLEI) and the United Cities and Local Governments (UCLG) — and with support from UN-Habitat, the UN's lead agency on urban issues.



**Covenant
of Mayors**
Committed to urban
sustainable energy

About The Covenant of Mayors

Created in 2008 to implement the EU's 2020 climate and energy targets, the Covenant of Mayors has firm commitments of over 6800 cities in 58 countries resulting in Action Plans with an investment of over €110 billion. In 2015, Commissioner Miguel Arias Cañete has launched the integrated Covenant of Mayors incorporating also adaptation to climate change and extending it to the 2030 timeframe. Covenant signatories voluntarily pledge action to support implementation of the European Union 40% greenhouse gas-reduction target by 2030 and the adoption of a joint approach to tackling mitigation and

Attachment 6 - Global Covenant of Mayors Press Release



adaptation to climate change. The EU Covenant of Mayors is funded by the European Commission and currently operated by the Council of European Municipalities and Regions (CEMR), Climate Alliance, Energy Cities, EUROCITIES and the European Federation of Agencies and regions for Energy.

Contacts

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11.2 Amendment C185 - 462-482 Swan Street Richmond - Consideration of Panel Report

Trim Record Number: D17/15943

Responsible Officer: Director Planning and Place Making

Purpose

1. The purpose of this report is for Council to consider the Panel Report for Amendment C185. Council will need to decide whether to adopt the Amendment in the form recommended in this report and to submit the Amendment to the Minister for Planning for final approval in accordance with the relevant provisions of the *Planning and Environment Act 1987*.

Background

2. Amendment C185 represents a combined Section 96A application comprising concurrent consideration of an amendment to the Yarra planning scheme and planning permit application for 462-482 Swan Street, Richmond.
3. The development of Amendment C185 has been a result of extensive discussions with community, Council and developers spanning a period of approximately four years. This included discussions as part of the preparation of the Swan Street Structure Plan that was adopted by Council in December 2013.
4. The amendment which was formally lodged following these discussions proposed to rezone 462-482 Swan Street, Richmond from a Commercial 2 Zone to a Commercial 1 Zone, apply a Design and Development Overlay (DDO14) and an Environmental Audit Overlay over the land.
5. The draft planning permit for use and development of land for a mixed use development comprises 2 buildings (part 3-10 storey and part 3-12 storey) 242 dwellings, a supermarket and retail, offices, a gymnasium (with swimming pool) (permit required for dwellings and restricted recreation facility only), a reduction in the car parking requirement, buildings and works including alteration to access to a Road Zone (Category 1).
6. The amendment was presented to Council in May 2016 to seek *authorisation* from the State Government to prepare and exhibit the amendment once receiving authorisation. The report to Council in May analysed the proposal from both a zoning perspective and also from a Statutory Planning perspective.
7. The Council considered the officer report, and at that stage, added in some conditions on the draft planning permit to be put on exhibition (including a component of affordable housing provision) – see Attachment 1.
8. Authorisation was sought based on the Council resolution which included the additions to the officer recommendations. Authorisation was then received from DELWP on 24 June 2016 and included two matters that Council was advised to address during the amendment process. These matters are outlined below as follows:
 - (a) *“The amendment proposes mandatory maximum building height requirements through the application of proposed DDO14. State planning policy seeks to achieve innovative, site responsive and high quality architectural design for new development. Practice Note 60 calls for ‘exceptional’ grounds to justify the application of mandatory building height controls. Council should strategically justify the need to apply mandatory building height controls to an area identified as a Major Activity Centre at Clause 21.02 of the Yarra Planning Scheme”; and*
 - (b) *“The State Planning Policy framework provides direction in relation to the role of land use planning system in supporting housing diversity and affordability, with specific policy at Clause 16.01-5. I recommend that you consider the workability and wording of condition 23 (5 % of the total dwelling provision to be affordable housing).”*

9. Council received a total of 32 submissions to the amendment during the exhibition process and one late submission. Of these, 16 opposed some aspect of the proposal; the remainder either supported the proposal or provided support contingent upon changes being made to aspects of the development.
10. Given the differing views expressed in the submissions, Council resolved to refer the amendment to a planning panel at the Council meeting on 19 September 2016 – see Attachment 2.
11. The planning panel hearing was held over 3 days in November 2016 with representation from the proponent, Urbis (on behalf of Riverlee Management Ltd), Vic Roads and PTV, in addition to Council. Council was represented at the Panel Hearing by Maddocks Lawyers.
12. The planning panel report was received on 7 January 2017 and released publically on 6 February 2017. It found that the amendment was well founded and strategically justified.
13. The Panel recommended that the amendment be adopted and the planning permit be approved subject to changes to DDO14 and the planning permit. The recommended DDO14 and planning permit by the panel are included in Appendix C and D of the Panel Report.
14. Council will now need to decide whether to adopt the Amendment as recommended by the planning panel, or with changes, or to adopt the exhibited version of the amendment (or any variation). The adopted amendment would then be submitted to the Minister for Planning seeking approval in accordance with the relevant provisions of the *Planning and Environment Act 1987*.
15. Alternatively, Council could abandon the amendment. However, abandoning the amendment is not considered a pragmatic option given the strategic policy support for the amendment, the broad consistency with the Swan Street Structure Plan, the significant net community benefits and public realm improvements associated with the amendment and planning permit, and the investment of Council and proponent resources to date.

External Consultation

16. Amendment C185 was placed on public exhibition from 21 July 2016 to 19 August 2016 in accordance with Section 96C of the Planning and Environment Act. Extensive information was circulated as a part of the notification process.
17. In addition, a public information session was conducted on Wednesday 3 August between 2.00pm and 7.00pm to provide an opportunity for members of the public to view documentation associated with the amendment and to speak with consultants representing the applicant. A total of 5 parties attended the session.
18. Council considered the submissions at its meeting on 19 September 2016.
19. The planning panel is also an important consultation process and allowed submitters the opportunity to have their concerns with the amendment considered by an independent planning panel process.

Internal Consultation (One Yarra)

20. Input into the proposed amendment has been provided at various stages from a number of different areas across Council, including Statutory Planning, Sustainable Transport and Infrastructure. Liaison with internal stakeholders has been key to the coordinating effort and achieving positive outcomes – particularly given the amendment comprises a combined planning permit application, rezoning of land and application of an Environmental Audit Overlay and Design and Development Overlay.

Financial Implications

21. The cost of preparing the amendment and relevant statutory control for the site has been included in the annual operational budget of the City Strategy Branch.
22. The applicant has paid prescribed fees associated with the amendment as it progresses.

Economic Implications

23. The economic implication of the proposed amendment would include increased retail and commercial activity and is also likely to facilitate the growth of local employment. This would have flow on effects for the local economy as an increasing resident and visitor population is accommodated who are likely to utilise local shops, businesses and services.

Sustainability Implications

24. The site abuts both Burnley Station and tram routes on Swan Street. Sustainable modes of transport would be encouraged through an improved public realm that would also enhance passenger interchange between public transport modes.

Social Implications

25. Amendment C185 responds to a number of social aspects including:
- (a) responding to the demand for additional housing in the area;
 - (b) providing a nexus between good design, appropriate land use activities and connections to a sense of place;
 - (c) the influence of the public realm on perceptions of safety;
 - (d) greater accessibility for people with disabilities through the improvements to the Burnley Station; and
 - (e) promoting social and housing diversity through the inclusion of affordable housing in the development.

Human Rights Implications

26. There are no known restrictions or infringements on the substantive rights outlined in the charter of Human Rights and Responsibilities Act 2006.

Communications with CALD Communities Implications

27. Notification of the amendment included advice about Council's interpreter service which enabled affected parties to understand the proposal and associated processes.

Council Plan, Strategy and Policy Implications

28. The Council Plan 2013-2017 recognises that much of Yarra's significant residential development occurs in busy residential areas, and close to or in activity centres. In addition, the Council Plan highlights the need for growth to be balanced with sustainable development including the retention of valued heritage assets.

Legal Implications

29. The Amendment has been prepared and advanced in accordance with the Planning and Environment Act 1987.

Discussion

30. The planning panel has assessed the amendment in light of the submissions received by Council during the exhibition period as well as the submissions and expert evidence presented to the planning panel during the panel hearing.
31. The report and its recommendations are included in Attachment 3.

Key Recommendation and Panel Commentary

32. The panel identified that the development on 462 - 482 Swan Street Richmond, known as the 'timberyard site' would have an overall positive impact to the Burnley Village Precinct and is aligned with both State and Local strategic objectives.

33. The Panel highlighted that the important role that this site will have on rejuvenating the eastern end of Swan Street and also acknowledged the significant contribution that the proponent is making to public realm improvements. These improvements include provision of land for widening of the Burnley and Swan Street footpath, works to replace the existing pedestrian ramp with a DDO compliant pedestrian ramp to access Burnley Street Station, improvements to the service road, and works to improve footpath treatments on Burnley Street and Swan Street. These works are valued at an estimated \$3.31 million (comprising land and \$1.045mil in works).
34. The panel noted that there were only a limited number of issues for it to consider. This is reflective, in part, to the number of iterations of the proposal prior to formal lodgement, and extensive internal and external referrals undertaken by Council officers in assessing the detail, and the impact of the proposed development.

Building Heights

35. In considering building heights, the panel assessed the suitability of the proposed height and scale of the development and whether the controls listed in the Design and Development Overlay should be mandatory or discretionary.

Suitability of Building Height

36. Concern about the height and scale of the development was raised by several of the residents in submissions during the exhibition period whilst a number of other submissions considered that the height was appropriate.
37. The submitters at the panel hearing and the two experts that provided their advice to the panel were supportive of the proposed building height of 10 and 12 storeys.
38. After considering this expert evidence the Panel concluded that the height and scale of the proposed development was appropriate, particularly in the context of the site's location adjoining the Burnley Railway station, and would not result in unreasonable visual or amenity impacts.
39. The panel considered the issue of overshadowing of the railway station but concluded that the shadowing cast by the proposed development was acceptable.
40. The panel acknowledged the concern of residents about the scale of the proposed building relative to others in the area but identified that whilst initially the development of the site may result in it having some prominence, this will lessen over time as surrounding sites are developed.

Mandatory Heights

41. The exhibited DDO14 by Council included a mandatory maximum control on the building heights and setbacks. During the exhibition of the amendment, a number of submitters identified concern with this provision.
42. The planning panel identified this as an important issue and instructed that Council's submission address this issue, particularly how the proposed control complied with two Planning Practice Notes (PPN) – PPN 59 and 60 (previously provided to Councillors). These PPNs deal directly with the merits of applying mandatory heights (i.e. maximum heights) into a planning scheme and include key criteria that must be met to justify mandatory heights. Of note is the need for '*exceptional circumstances*' to justify any proposed mandatory heights.
43. At the panel the advocates for the proponent and Riverlee Management Ltd objected to the DDO on this issue, identifying that the site and the immediate locality did not have the characteristics that warranted the application of mandatory heights.
44. Council's submission to the panel argued the merits of applying mandatory heights on the site based on the criteria in the planning practice note. It highlighted the broadening use of mandatory planning provisions in recent years and the fact that this is a site specific amendment where there is a clear desire to mark this site as the tallest in the Burnley Street Precinct area of the Swan Street Structure Plan. It identified, that as the first major site to be developed in this precinct area, it was

important that there be clear and strong planning controls that send an unambiguous signal about the expectations for building heights on this site and restrict a proliferation of tall forms that are not consistent with a cohesive approach to built form in the area. Finally, it added that the ‘*exceptional circumstances*’ had been met by virtue of the balance that had been struck between taller development and community benefit, the uniqueness of a rezoning coupled with a planning permit application, and the fact that this is a site specific rezoning that precedes a broader amendment for the Swan Street.

45. The panel considered that the exceptional circumstances test was not met for a number of reasons, notably the lack of sensitivity of the site and its interfaces, and the proximity of the site to transport and services. It was also not convinced that the positive outcomes from the Amendment could not be equally achieved by discretionary controls.
46. The panel, in conclusion, did not support Council’s submission and recommended that the mandatory form of the proposed DDO14 be revised to discretionary. Importantly, the panel formed the view that applying a discretionary provision did not signify that taller form would or should be supported and referred to the view expressed by the Panel for Amendment C108 to the Boroondara Planning Scheme that concluded:

“This predisposition in favour of performance based, discretionary provisions is on the basis that discretion does not mean that a departure from the nominated heights or setbacks should, or will, be supported – rather, there should be a clear onus on the designer to demonstrate that departures from a nominated discretionary building envelope will produce a better outcome for the developer, future occupants and the community.”

47. The Panel stated that it should be clear in the DDO that exceeding the maximum height and setbacks should only occur in exceptional circumstances.
48. Reflecting this, the panel recommended that the heights in the DDO be expressed as maximum (i.e. maximum of 42m) but include a clause which requires planning permit applications which exceed the maximum height or minimum setback to demonstrate key criteria to the satisfaction of the responsible authority. (NB this, in essence, is a discretionary approach).
49. The recommended criteria by the Panel are stated as follows:
 - (a) *that the built form outcome as a result of the variations satisfies the Design Objectives of the Schedule; and*
 - (b) *that the proposal will achieve:*
 - (i) *an exemplary built form outcome;*
 - (ii) *an exemplary public realm outcome;*
 - (iii) *innovative environmental design;*
 - (iv) *minimal additional overshadowing (beyond that which would be generated by a proposal that complies with the specified height and setback requirements) of the public realm including adjoining streets, the Burnley Railway Station, public places and the residential properties of Madden Grove; and*
 - (v) *minimal adverse amenity impacts to adjoining properties (beyond that which would be generated by a proposal that complies with the specified height and setback requirements).*
50. The recommendation around mandatory mandatory heights is considered the most significant issue in the panel report.

Setbacks on the Planning Permit

51. The exhibited DDO by Council states that the development *must* provide a upper level setbacks of: a minimum of 6m from Swan Street, 5 metres from the eastern boundary, and a minimum of 3m from the south (rail corridor) and west (Burnley Street).
52. The draft planning permit complies with the setbacks from the eastern boundary (5.5m to 6.5m) and from Burnley Street (3m to 5m). However, the setbacks from Swan Street are between 5.5m and 6.9m and the setbacks from the rail corridor are between 2.5m and 4.9m. These setbacks were considered to be appropriate by the urban design expert and the planning panel. The Panel recommended that DDO14 is therefore amended to make these setbacks discretionary.
53. It is recommended that Council supports discretionary controls regarding the building setbacks for the development.

Provision of Affordable Housing

54. At the Council meeting in May 2016, Council resolved to seek authorisation from the Minister for Planning to exhibit the amendment.
55. It is noted that at this stage Council also resolved to add a condition to the planning permit requiring the applicant to enter into a Section 173 Agreement to provide 5% affordable housing in association with an accredited housing association.
56. At the panel hearing, the panel directed that Council's submission address this condition, particularly the definition and the workability of the condition. The proponent also objected to this condition, but during the hearing offered to accept a suitably worded condition if the building heights were discretionary.
57. Council's submission addressed the panel's request outlining the merits and policy basis for the condition, and pointing to examples like the former Amcor site in Alphington for proof that such a condition was workable. It expressed by Council's advocate that the definition question is actually a distraction to the matter at hand and that the future accredited housing association are best placed to ensure that the housing provided meets their remit and definition of 'affordable'.
58. The Panel concluded that a condition requiring a Section 173 Agreement to facilitate the provision of 5% of the total number of dwellings to be purchased or managed by an accredited housing association as affordable housing, was appropriate. This recommendation was subject to the wording of the condition being amended to that of Condition 22 in the panel recommended drafting of the planning permit in Appendix C of their report, as follows:

"Before the development is occupied, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 which requires that the owner must facilitate the provision of affordable housing by:

- (a) entering into an arrangement with a state government accredited housing association in respect of 5 % of the total number of dwellings to be purchased or managed by that accredited housing association as affordable housing within the meaning of that affordable housing agency's remit to the satisfaction of the responsible authority; or*
- (b) making other arrangements for the provision of affordable housing in respect of the same number of dwellings to the satisfaction of the responsible authority."*

59. The panel explicitly identified that it did not support the housing being gifted (Section 5.3 of the Panel Report).

60. In making their recommendation, the panel concluded that there was both State and Local policy support for seeking affordable housing. It agreed with Council's submission that the definition of affordable housing could be left to the accredited housing association, whilst stating that an agreed definition should (ultimately) be identified to assist in similar future processes.
61. The support for the condition should be strongly welcomed by Council and seen as another significant community benefit of this amendment and proposed development.

Officers Response

62. The revised wording of the condition outlined in the Panel report was prepared by two planning lawyers during the panel hearing with support from Council officers and the proponent. It has been agreed to by the proponent and is considered to be appropriate and workable. Importantly, it requires Council as the responsible authority to be involved in the preparation of the Section 173 Agreement and the arrangement reached between the proponent and the accredited housing association.
63. It is recommended that Council adopt the wording recommended by the Panel.
64. It is noted, however, that (in theory) there is potential for the condition to be lost through any new permit application. To address this potential issue the proponent has agreed to have a Section 173 Agreement prepared and executed that requires that the owner of the land provide 5% affordable housing (as per the condition) for any residential development or any mixed use development. A draft of the S173 Agreement is included in Attachment 7.
65. It is important that should Council be predisposed to adopt the amendment that this Section 173 Agreement be signed prior to submitting the amendment to the DELWP for approval.

Other Issues

66. A number of other issues were considered by the Planning Panel to address submissions received during the exhibition of the amendment. Key recommendations are made for minor wording changes to the DDO and to conditions on the Planning Permit to address these.

Transport - Delays to the route 70 tram and relocation of the tram stop

67. In preparing the amendment and the planning permit, officers and the proponent met with Vic Roads and PTV on numerous occasions to seek to safely integrate the development into the road network and to maximise connectivity to the Burnley Railway Station.
68. The outcome of these discussions was confirmation of the contribution by the proponent to the pedestrian and public realm improvements outlined above and an understanding that a new set of traffic signals was required to safely manage vehicle access in and out of the proposed development. These outcomes were incorporated into the amendment material that was approved by Council for exhibition.
69. During the exhibition of the amendment, PTV raised concerns about the impact of the traffic signals on the efficiency and reliability of the trams due to the delay caused by these new traffic signals. Vic Roads submitted in favour of the traffic signals.
70. To address this conflicting position, the panel directed that a conclave of transport experts (traffic consultants, PTV and Vic Roads) be held prior to the panel commencing where this and other transport issues were to be discussed.
71. The conclave agreed that traffic signals were required and during the panel, PTV confirmed that they did not object to the new traffic signals but sought the funding of mitigation measures from the proponent to address the delays. One option put forward by PTV was for the proponent to fund the relocation of the outbound tram stop on Swan Street.

72. As a submitter to the panel, the onus was on PTV to demonstrate the impact of the delays, the need and effectiveness of any mitigation measures, and the workability of any method for achieving the contributions. The evidence and submission presented by PTV did not demonstrate these, left many questions unresolved, and raised concerns for the traffic experts.
73. The panel supported the introduction of signals noting that in their view the potential delays to tram services did not outweigh the benefits of installing new traffic signals.
74. It did not support contributions to mitigate the delay to trams and concluded:
- “That no case had been made (by PTV) in this instance for the proponent to fund any mitigating works to be undertaken to reduce tram delays, other than those included as recommended permit conditions.”*

And:

“That the relocation of the outbound tram stop to the east side of Burnley Street should not be considered as part of the current Amendment process.”

75. In making their decision, the panel advised that it was not appropriate to impose the cost of mitigating works on this development in this instance, and did not consider this amendment to be the appropriate process for addressing the location and development of an Easy Access Stop.
76. Whilst improvements to tram stops are supported, officers consider that the recommendations made by Panel are appropriate.
- Transport – Removal of Parking on Swan Street for the new traffic signal*
77. The introduction of a new traffic signal would result in a minimal but necessary loss of on street car parking along Swan Street. The number of spaces that should be removed was discussed at the conclave of traffic experts with a broad agreement reached.
78. The Panel concluded that:
- (a) the parking spaces agreed by experts should be removed as a part of the development; and
 - (b) the parking spaces not agreed for removal by experts should be retained at this stage and considered for removal at a later stage if post development analysis shows that their removal can be justified on traffic performance grounds and a condition be included in the planning permit to this effect.
79. The recommendations made by Panel are considered acceptable as they allow further removal of car parking to be confirmed through post development analysis.

Transport - Bus Stop Location

80. Currently there are two bus stops located in the Burnley Street service road and PTV has indicated there are plans to introduce a new bus route which would also use the service road. Concerns were raised by PTV and VicRoads regarding the location of the stops relative to the proposed loading bay.
81. The Panel considered this issue and concluded that no change to the amendment was required with numerous options outside of the amendment process available to address this if required.

Transport – Onsite car and bicycle parking

82. A concern that was raised by the community during the exhibition period was the reduction in the supply of car parking in the development below the parking rates in the Planning Scheme and the effect it would have on the broader neighbourhood.

83. The Panel concluded that the parking supplied in the development was adequate and given the very good access from the site to tram and train services the reduced parking supply would not be a problem. The Panel also commented that the supply of bicycle parking was above the required amount.

Noise

84. A resident raised concerns about excessive noise in the early morning, evening and weekends. The submitter was not specific what type of noise was a concern to them.
85. The Panel concluded that adequate protection against noise would be mitigated through the planning permit conditions.

Heritage

86. A part of the development would result in the demolition of five semi-detached cottages located on the site. The demolition of these dwellings was raised by local residents during the exhibition period who considered that they were of heritage significance.
87. A Council report on this issue was considered by Council in September 2016 which included advice prepared by David Helms (a consultant from Context) who advised:

The houses are directly opposite the shops at nos. 405 to 419 Swan Street, which date from the late Victorian to interwar periods, and form part of the Burnley Street Precinct, which is proposed for inclusion in the HO by Amendment C183. The potential inclusion of these houses within that precinct was considered as part of the assessment that I carried out for the City of Yarra Heritage Gap Study Review of Central Richmond (2014); however, they were excluded for the following reasons:

- (a) historically, the south side of Swan Street east of Burnley Street did not develop as part of the commercial centre like the north side, and the south side west of Burnley Street. The site of the houses at nos. 462-470 was, until the early twentieth century, the site of the first St Bartholomew's Anglican Church before it was relocated to 290-300 Burnley Street;*
 - (b) the houses did not form part of an otherwise intact streetscape; and*
 - (c) this type of housing is already well represented in the heritage overlay, as noted above.*
88. The Panel accepted the findings of Mr Helms and did not believe that the heritage significance of the cottages warranted their retention. It concluded that the demolition was an acceptable planning outcome.

Removal of the Swan Street Structure Plan (SSSP) from the DDO

89. As a part of the formation of the Design and Development Overlay for the site the SSSP is named as a reference document.
90. During the panel, the proponent submitted that the Swan Street Structure Plan should not be included as a reference document.
91. The Panel agreed with the proponent that the SSSP should not be included in the DDO as the structure plan had not been, at this stage, through a thorough independent assessment process and crucially the substantive elements of the advice in the document that relate to the subject site are included in the DDO.
92. A more appropriate time to introduce the Swan Street Structure Plan as a reference document is the proposed amendment to apply a DDO along Swan Street that is anticipated to be considered by Council in the coming months.

Options

93. Council has options available in considering the amendment at this stage. It could adopt the amendment with some or all of the changes recommended by the panel or it could adopt the exhibited version of the amendment.

94. Any option pursued by Council that departs from the panel recommendations would require justification or it may not be supported by DELWP officers or approved by the Minister for Planning. This may be the case for any departure relating to mandatory maximum heights given that the support for authorisation explicitly required that Council strategically justify the mandatory nature of the exhibited DDO.
95. The only panel recommendation considered to have options presented to Council relates to the mandatory heights aspect. The options identified are:
 - (a) Adopt the panel recommendation to amend the DDO to make the building height discretionary and include the recommended criteria to determine applications for development that exceeds the 12 storey height;
 - (b) Adopt the panel recommendation (with changes) to amend the DDO to make the building height discretionary but make changes to the DDO objectives and criteria to determine applications for development that exceeds the 12 storey height;
 - (c) Adopt the amendment with a mandatory maximum building height of 12 storeys as exhibited; and
 - (d) A hybrid option is to amend the DDO to include a preferred height of 12 storeys and a mandatory maximum height of 14 storeys with the same criteria to determine applications for development that exceeds 12 storeys.
96. **Option 1** would be consistent with the panel's recommendations to Council and reflect the Swan Street Structure Plan which includes a building height of 10 to 12 storeys for this site. However, the discretionary nature of the provision could allow additional height to be approved subject to the criteria in the DDO14 being satisfied.
97. This option is likely to be accepted by the DELWP officers and is consistent with the conditions of their authorisation of the amendment.
98. **Option 2** is similar to Option 1, subject to incorporating the final wording (see below) within the DDO Schedule.
99. Some minor word changes to strengthen the consideration of additional height that officers have identified include:
 - (a) Amending the first objective in DDO 14 to more explicitly support a height that is 'mid-rise' (and not 'high rise') as follows:

"To provide for high density, taller mid-rise development that delivers significant public realm improvements".
 - (b) Amending the wording of the criteria proposed by the panel to inform the consideration of additional height in DDO14 to read:

"That the built form outcomes as a result of the proposed variation satisfies achieves the Design Objectives of this Schedule".
100. Options 3 and 4 are based on retaining mandatory maximum building heights in accordance with Council's position put forward to the Planning Panel.
101. Clearly, the retention or reintroduction of mandatory maximum heights would be contrary to the recommendation of the panel and the Minister's Practice Note 60. It is therefore likely that Options 3 and 4 would be closely scrutinised by the DELWP. Ultimately any adoption by Council of proposed mandatory maximum heights may, or may not, be approved by the Minister for Planning.
102. **Option 3** would reflect the Swan Street Structure Plan which includes a building height of 10 to 12 storeys for this site. The mandatory nature of the control would ensure that this height could not be exceeded.

103. It also reflects the advice of Rob McGauran, an external urban design expert, who supported the use of mandatory controls for the site, stating in his evidence to the panel:

“Where development is to be staged and where the outcome is unknown but the planning merits of rezoning are clear, I have been supportive typically of discretionary heights. That is not the case in this instance. In this instance the Panel has a clear proposal before it for a discrete site within the Swan Street corridor at a critical interface with the Burnley Station and Activity Centre.”

104. **Option 4** The panel’s recommendation that any additional height should result in minimal additional overshadowing and minimal additional amenity impacts suggests that any additional height above 12 storeys would need to be minimal.
105. It may therefore be possible for Council to consider Option 4 to adopt a version of DDO14 with a preferred maximum height of 12 storeys and maximum mandatory height of 14 storeys. This hybrid, in effect, would accept the panel recommendation for some discretion but would limit the additional building heights to two extra storeys.
106. This option would be broadly consistent with the heights in the Swan Street Structure Plan and respond to the panel’s recommendations while still retaining a mandatory maximum height. This approach has been used in other amendments in the CBD and has been accepted by the DELWP. It is likely that the DELWP would require additional work to demonstrate that 14 storeys were acceptable against the criteria proposed by the panel but that further additional height would not.
107. The proponent has indicated that they would entertain this option to enable the DELWP to consider the amendment for approval.

Conclusion

108. The Panel has strongly supported the strategic merit and detail of Amendment C185, including the draft planning permit with various conditions. It identified that the proposed development would provide significant community benefit through rejuvenation of this part of Swan Street and considerable improvements to the public realm. Added to this, the panel has recommended that a condition for the provision of affordable housing be included.
109. Council is recommended to carefully consider the panel recommendations outlined in this report and included in full in Attachment 3. It should note that any departure from the panel recommendation would require justification if the amendment is to be approved by the Minister for Planning.
110. The most significant issue for consideration is the recommendation by the panel that DDO14 be amended to make the maximum building height of 12 storeys a discretionary provision and not a mandatory control with criteria to test any future permit for additional height. Whilst the panel agreed that the proposed height of 10 and 12 storeys in the permit was appropriate, it did not support mandatory controls in the DDO, principally because the criteria in Planning Practice Note 59 and 60 were not met in their view.
111. The amendment was prepared, and following the Council judgment in May 2017, exhibited with a well resolved planning permit following lengthy discussions with the proponent and input from an expert urban designer. The amendment was exhibited on the basis that it reflected the Swan Street Structure Plan and provided an appropriate balance of enabling a new taller form of development in the area with a number of social and economic benefits for the community: additional housing; additional employment; significant public realm and streetscape improvements; and a broadened retail and leisure mix in the Burnley Village.
112. The heights were exhibited as mandatory controls reflective of this balance and the desire to provide certainty to the community about the future height of development on this strategic redevelopment site. This rationale remains the same and valid but for the strict application of the practice notes.
113. Council adoption of the amendment is recommended which would begin the realisation of Council’s strategic directions for the Burnley Village as addressed in the Swan Street Structure Plan.

RECOMMENDATION

1. That Council:
 - (a) note the report in relation to Amendment C185 regarding the rezoning of land for the property concerning 462-482 Swan Street, Richmond, the application of a Design and Development Overlay (DDO14) and an Environmental Overlay over the land;
 - (b) note the findings of the independent C185 Planning Panel that considered the amendment and heard submitters; and
 - (c) note that any change to the amendment that departs from the panel recommendation would require justification or it may not be supported by DELWP officers or the Minister for Planning.
2. That Council note that in officers opinion there is strategic justification, for a variation to the Panel's recommendation as outlined below:
 - (a) the adopted Swan Street Structure Plan (2015) identifies the site for 10 to 12 storey development and the C185 Planning Panel supported a planning permit of part 10 and part 12 storeys;
 - (b) a mandatory maximum building height provides increased certainty to the community; and
 - (c) a mandatory maximum building height of 12 storeys was supported by an external urban designer.
3. That in the context of the above, Council resolve to:
 - (a) amend DDO14 prepared by the C185 Planning Panel in Attachment 4 to include a mandatory maximum building height of 12 storeys and the following changes (as per Attachment 5):
 - (i) alter the text in Clause 2.0 Buildings and Works to make the building heights a mandatory control as follows:
"Buildings and works ~~should~~ must be constructed in accordance with the following requirements:
Building Heights:
 - *The building heights ~~should~~ must not exceed a maximum of 42 metres.*
 - *The maximum height does not include building services which should be hidden from view from any adjoining public space or designed as architectural roof top features. Building services include but are not limited to plant rooms, air conditioning, lift overruns and roof mounted equipment."*
 - (ii) amend text in Clause 3.0 Permit Requirements by deleting the words "specified height" from the first sentence;
 - (iii) add the following text in Clause 3.0 Permit Requirements:
"A permit cannot be granted to construct a building or construct or carry out works which are not in accordance with the building height requirements in Clause 2.0."
 - (iv) remove the following text from sub point 4 in Clause 3.0:
"including the adjoining streets, the Burnley Station, public places and the residential properties along Madden Grove"; and
 - (v) make any other necessary changes to the version of DDO14 in Attachment 5 to introduce a mandatory maximum building height of 12 storeys.
 - (b) adopt the changes to the planning permit recommended by the C185 Planning Panel in Attachment 6;

- (c) adopt Amendment C185 with these changes and submit the amendment for approval by the Minister for Planning in accordance with the Planning and Environment Act; and
- (d) authorise the CEO to amend as necessary, sign and execute the draft Section 173 Agreement in Attachment 7 to secure the provision of 5% affordable housing in the development of the site at 462 – 482 Swan Street, Richmond.

CONTACT OFFICER: David Walmsley
TITLE: Manager City Strategy
TEL: 9205 5350

Attachments

- 1** Council Resolution from Council Meeting 17th May 2016
- 2** Council Resolution from Council Meeting 19th September 2016
- 3** Yarra C185 Panel Report
- 4** Am C185 Panel Recommended Version of DDO14
- 5** Am C185 Officer Recommended Version of DDO14
- 6** Am C185 Panel Recommended Planning Permit
- 7** Draft Section 173 Agreement for 462 - 482 Swan Street

Attachment 1 - Council Resolution from Council Meeting 17th May 2016

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11.3 Authorisation of Amendment C185 for 462-482 Swan Street, Richmond

Trim Record Number: D16/65014

Responsible Officer: Director Planning and Place Making

RECOMMENDATION

1. That:
 - (a) Council note the officer report in relation to a proposed rezoning and redevelopment of the sites at 462 – 482 Swan Street, Richmond;
 - (b) determine to seek, pursuant to Section 8A and Section 96A of the *Planning and Environment Act 1987*, authorisation to prepare Amendment C185 and the draft Planning Permit PLN15/0057; and
 - (c) if authorisation is received from the Minister of Planning, Council exhibit Amendment C185 and the draft Planning Permit PLN15/0057 in accordance with Section 19 of the *Planning and Environment Act 1987*.

REVISED OFFICER RECOMMENDATION

1. That:
 - (a) Council note the officer report in relation to a proposed rezoning and redevelopment of the sites at 462 – 482 Swan Street, Richmond;
 - (b) the draft planning permit as shown in Attachment 16 be amended as follows:
 - (i) add an additional condition on page 2, 1. (LL) Additional swept path diagrams with regards to the B85 design vehicle passing the B99 design vehicle for the basement levels in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004;
 - (ii) amend Condition 28 to state: The landscape planting associated with the External Landscape Plan (Condition 27) will be carried out by the Responsible Authority, at the permit holder's expense; and
 - (iii) delete condition 63 on page 13 of attachment 16; and
 - (c) Council determine to seek, pursuant to Section 8A and Section 96A of the *Planning and Environment Act 1987*, authorisation to prepare Amendment C185 and the draft Planning Permit PLN15/0057; and
 - (d) if authorisation is received from the Minister of Planning, Council exhibit Amendment C185 and the draft Planning Permit PLN15/0057 in accordance with Section 19 of the *Planning and Environment Act 1987*.

Public Submission:

Mr Adam Agosta of bamfa Properties addressed Council on this matter.

COUNCIL RESOLUTION (PROCEDURAL)**Moved:** Councillor Barbour**Seconded:** Councillor Vlahogiannis

That the meeting adjourn for 5 minutes.

CARRIED

Attachment 1 - Council Resolution from Council Meeting 17th May 2016

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MOTION

Moved: Councillor Vlahogiannis

Seconded: Councillor Fristacky

1. That:

- (a) Council note the officer report in relation to a proposed rezoning and redevelopment of the sites at 462 – 482 Swan Street, Richmond;
 - (b) the draft planning permit as shown in Attachment 16 be amended as follows:
 - (i) add an additional condition on page 2, 1. (II) Additional swept path diagrams with regards to the B85 design vehicle passing the B99 design vehicle for the basement levels in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004;
 - (ii) amend Condition 28 to state: The landscape planting associated with the External Landscape Plan (Condition 27) will be carried out by the Responsible Authority, at the permit holder's expense;
 - (iii) delete condition 63 on page 13 of attachment 16;
 - (iv) insert new Condition 23 which states: Before the development starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 to provide 5 percent of the total dwelling provision to be affordable housing in association with an accredited housing association;
 - (v) insert new condition 24: The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority; and
 - (vi) renumber the conditions in the draft planning permit accordingly; and
 - (c) Council determine to seek, pursuant to Section 8A and Section 96A of the Planning and Environment Act 1987, authorisation to prepare Amendment C185 and the draft Planning Permit PLN15/0057;
 - (d) if authorisation is received from the Minister of Planning, Council exhibit Amendment C185 and the draft Planning Permit PLN15/0057 in accordance with Section 19 of the Planning and Environment Act 1987; and
 - (e) Council include in the draft Planning Permit a requirement for a Section 173 Agreement under the Planning and Environment Act shall be entered into for the provision of 5 percent of the total dwelling provision on site to be affordable housing in association with an accredited housing association.
2. Council notes that its purpose in moving this resolution is specifically to facilitate community consultation on this proposal and does not imply any particular support or otherwise from Council for the proposal at this point in time.

AMENDMENT

Moved: Councillor Gaylard

3. That the consultation with the community clearly seek preference on whether the DDO mandatory maximum height be 10 or 12 storeys.

The amendment was accepted by the mover and seconder and incorporated into the motion.

Attachment 1 - Council Resolution from Council Meeting 17th May 2016

Minutes Page 13

COUNCIL RESOLUTION – Revised by Council resolution on 7 June 2016

Moved: Councillor Vlahogiannis

Seconded: Councillor Fristacky

1. That:

- (a) Council note the officer report in relation to a proposed rezoning and redevelopment of the sites at 462 – 482 Swan Street, Richmond;
 - (b) the draft planning permit as shown in Attachment 16 be amended as follows:
 - (i) add an additional condition on page 2, 1. (II) Additional swept path diagrams with regards to the B85 design vehicle passing the B99 design vehicle for the basement levels in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004;
 - (ii) amend Condition 28 to state: The landscape planting associated with the External Landscape Plan (Condition 27) will be carried out by the Responsible Authority, at the permit holder's expense;
 - (iii) delete condition 63 on page 13 of attachment 16;
 - (iv) insert new Condition 23 which states: Before the development starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 to provide 5 percent of the total dwelling provision to be affordable housing in association with an accredited housing association;
 - (v) insert new condition 24: The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority; and
 - (vi) renumber the conditions in the draft planning permit accordingly; and
 - (c) Council determine to seek, pursuant to Section 8A and Section 96A of the *Planning and Environment Act 1987*, authorisation to prepare Amendment C185 and the draft Planning Permit PLN15/0057; and
 - (d) if authorisation is received from the Minister of Planning, Council exhibit Amendment C185 and the draft Planning Permit PLN15/0057 in accordance with Section 19 of the *Planning and Environment Act 1987*.
2. Council notes that its purpose in moving this resolution is specifically to facilitate community consultation on this proposal and does not imply any particular support or otherwise from Council for the proposal at this point in time.
3. That the consultation with the community clearly seek preference on whether the DDO mandatory maximum height be 10 or 12 storeys.

CARRIED UNANIMOUSLY

Attachment 2 - Council Resolution from Council Meeting 19th September 2016

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5.7 Amendment C185 - 462-482 Swan Street Richmond - Consideration of submissions

Trim Record Number: D16/128570
Responsible Officer: Manager City Strategy

[Help](#)

RECOMMENDATION

1. That Council:
 - (a) note the officer report regarding the exhibition of Amendment C185;
 - (b) note the submissions received in respect to the exhibition period of Amendment C185; and
 - (c) having considered the submissions received in relation to Amendment C185 to the Yarra Planning Scheme, in accordance with Section 22 of the Planning and Environment Act 1987 (the Act):
 - (i) request that the Minister for Planning appoints a panel to consider the submissions received for Amendment C185 in accordance with Section 23 of the Act; and
 - (ii) advise the submitters of the Council resolution.

COUNCIL RESOLUTION

Moved: Councillor Jolly

Seconded: Councillor Stone

1. That Council:
 - (a) note the officer report regarding the exhibition of Amendment C185;
 - (b) note the submissions received in respect to the exhibition period of Amendment C185; and
 - (c) having considered the submissions received in relation to Amendment C185 to the Yarra Planning Scheme, in accordance with Section 22 of the Planning and Environment Act 1987 (the Act):
 - (i) request that the Minister for Planning appoints a panel to consider the submissions received for Amendment C185 in accordance with Section 23 of the Act; and
 - (ii) advise the submitters of the Council resolution.

CARRIED UNANIMOUSLY

Attachment 3 - Yarra C185 Panel Report

Planning and Environment Act 1987

Panel Report

Yarra Planning Scheme Amendment C185

Planning permit application PLN15/0057-03

Front page

10 January 2017



Attachment 3 - Yarra C185 Panel Report

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Yarra Yarra Planning Scheme Amendment C185

Planning permit PLN15/0057-03

10 January 2017



Rodger Eade, Chair



Debra Butcher, Member



Attachment 3 - Yarra C185 Panel Report

Yarra Planning Scheme Amendment C185 | Panel Report | 10 January 2017

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List of Abbreviations

C1Z	Commercial 1 Zone
C2Z	Commercial 2 Zone
DDA	Disability Discrimination Act 1992
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
EAO	Environmental Audit Overlay
EAS	Easy Access Stop
HO	Heritage Overlay
MAC	Major Activity Centre
MSS	Municipal Strategic Statement
PPN	Planning Practice Note
PTV	Public Transport Victoria
RD1Z	Road Zone Category 1
SPPF	State Planning Policy Framework
SSSP	Swan Street Structure Plan
VPP	Victoria Planning Provisions

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Overview

Amendment Summary	
The Amendment	Yarra Planning Scheme Amendment C185 and Planning Permit Application PLN15/0057-03
Brief description	To rezone land from Commercial 2 Zone to Commercial 1 Zone, apply a Schedule to the Design and Development Overlay and an Environmental Audit Overlay and a planning permit for a mixed residential and retail development including a gymnasium and swimming pool.
Subject site	462 to 482 Swan Street, Richmond
The Proponent	Bamfa Properties Pty Ltd
Planning Authority	Yarra City Council
Authorisation	24 June 2016
Exhibition	21 July to 19 August 2016
Submissions	Number of Submissions: 33, including one late submission. Of these 16 opposed some aspect of the proposal. The remainder either supported the proposal or provided support contingent upon changes being made to aspects of the development. Submissions from residents both opposed and supported the proposal. Submitters are listed in Appendix A.
Panel Process	
The Panel	Rodger Eade (Chair) and Debra Butcher
Directions Hearing	Planning Panels Victoria, 26 October 2016
Panel Hearing	Planning Panels Victoria, 23 November to 25 November 2016
Parties to the Hearing	As listed in Table 1
Site Inspections	Unaccompanied, 6 December 2016
Date of this Report	10 January 2017

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Executive Summary

(i) Summary

Yarra Planning Scheme Amendment C185 seeks to rezone 462-482 Swan Street, Richmond from the Commercial 2 Zone to the Commercial 1 Zone, apply Design and Development Overlay Schedule 14 and an Environmental Audit Overlay to the site. The application is for a combined planning permit under section 96 (a) of the *Planning and Environment Act 1987* for use and development of the land for a mixed use development comprising 242 residential apartments, four retail tenancies including a supermarket, offices, gymnasium and a swimming pool.

The current proposal has been developed over approximately four years and has involved a number of iterations and extensive internal and external referrals by Council on the detail and impact of the proposed development. The proposal is consistent with the Swan Street Structure Plan, an adopted Council policy but which has no status in the Yarra Planning Scheme. The proposal has strong strategic support under both State and local policy.

Key issues raised in submissions include: whether the height and setback controls in Design and Development Overlay Schedule 14, should be mandatory as proposed by Council or discretionary as proposed by the proponent and a number of other submitters; whether it is appropriate to include the *Swan Street Structure Plan* as a reference document in the Yarra Planning Scheme, given it has not been tested through a public process; whether the proponent should be required to make provision for 5 percent of the dwelling units as affordable housing; and whether the modelled delays to the route 70 tram service as a result of traffic generated by the development and a new signalised intersection installed as part of the development are acceptable; and a number of other issues raised by submitters including overshadowing, heritage issues, the height and scale of the development, urban design and the public realm, bus parking in the Burnley Street service road, and the removal of parking spaces in Swan Street.

The Panel has considered all submissions made to it, including those by submitters who did not appear at the Hearing and the expert evidence that was provided by both the Council and the proponent.

The main conclusions drawn by the Panel can be summarised as follows:

- Amendment C185 is strategically justified
- height and setback controls in Design and Development Overlay Schedule 14 should be expressed as discretionary and not mandatory
- there should be no reference to the *Swan Street Structure Plan* in Design and Development Overlay Schedule 14
- there will be some delay to tram services in Swan Street as a result of the development but these are broadly acceptable
- the proponent should not be required to meet the costs associated with works to mitigate the impacts of the development other than those included as permit conditions
- five percent of the total dwellings should be provided as affordable housing through arrangements with an accredited housing association

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- a planning permit subject to the conditions set out in Appendix C should issue for the proposed development.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Yarra Planning Scheme Amendment C185 be adopted as exhibited and Planning Permit PLN15/0057-03 be approved subject to the following:

1. **Amend the planning permit as set out in the Panel recommended version at Appendix C.**
2. **Amend Design and Development Overlay Schedule 14 as set out in the Panel recommended version at Appendix D.**

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1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment proposes to:

- rezone 462-482 Swan Street, Richmond from Commercial 2 Zone (C2Z) to Commercial 1 Zone (C1Z)
- change planning Scheme Map number 9 to rezone 462 to 482 Swan Street, Richmond from C2Z to C1Z
- apply a Design and Development Overlay (DDO14) over the land
- insert a new Schedule 14 to the Design and Development Overlay at Clause 43.02
- apply an Environmental Audit Overlay (EAO) over the land
- amend Planning Scheme Map 9 DDO, to apply DDO14 to the land
- amend Planning Scheme Map 9 EAO, to apply the EAO to the land.

(ii) Planning permit application PLN15/0057-03

Under section 96A of the *Planning and Environment Act 1987*, the Panel is considering a planning permit application for the following:

Use and development of land for a mixed use development comprising 2 buildings (part 3-10 storey and part 3-12 storey) dwellings, a supermarket and retail, offices, a gymnasium (with swimming pool) (permit required for dwellings and restricted recreation facility only), a reduction the car parking requirement, buildings and works including alteration to access to a Road Zone (Category 1).

The planning permit will facilitate the following land uses and floor areas:

- 242 residential apartments
- 4 retail tenancies of 3,402 square metres, including a supermarket
- 3 office tenancies (between 60 square metres and 250 square metres)
- Gymnasium of 366 square metres plus a 25 metre lap pool
- 443 car parking spaces
- 325 bicycle spaces.

Further, significant communal terrace and roof top areas are provided in addition to ground level public realm improvements both within and outside the title boundaries. The proponent estimates the value of these public realm improvements at \$3.31 million, including the value of land contributed.

(iii) Purpose of the Amendment

The purpose of the Amendment is to facilitate a mixed use development on the subject site, that offers retail uses at ground floor level, however is primarily residential above and has components as outlined in the previous section.

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(iv) The subject site

The Amendment applies to land shown in Figure 1. The land is located on the southern side of Swan Street, approximately 20 metres east of the intersection of Burnley and Swan Streets. The land has a frontage to Swan Street of approximately 80.44 metres, a depth of 57.91 metres and a total site area of 4,658 square metres. It currently accommodates five single storey attached dwellings and a large single storey timber yard. There is limited scattered vegetation on the land.

The subject site has 2 crossovers to Swan Street. The eastern most crossover is shared with the site to the east. A pedestrian path runs along the southern boundary of the site.

The land is located within a predominantly mixed commercial and light industrial area, with low rise residential areas further to the north and south. The land is located within the Swan Street Major Activity Centre (MAC).

The MAC provides a wide range of services, including local convenience trading, car and furniture showrooms, and food and drink premises.

Its immediate interfaces are:

- To the immediate north is Swan Street, which is a major arterial road managed by VicRoads. It is located within the Road Zone Category 1 (RD1Z). Tram services (Route 70) runs along Swan Street. Across Swan Street, opposite the site, are a number of double storey Edwardian terrace buildings used for retail and commercial purposes, including a café, hairdresser, gallery and real estate agent. The north side of Swan Street is located within the C1Z. The buildings at 413 and 415 Swan Street have heritage value and are located within the Heritage Overlay (HO).
- To the immediate south is Burnley Railway Station. There is pedestrian access from the Railway Station to Swan Street via a ramp and underpass.
- To the immediate east is a double storey office building at 484 Swan Street, partly constructed on the common boundary. There are car parking areas within the front setback and within the rear. There is also some landscaping within the front setback. Further east are single and double storey commercial buildings with car parking areas within the front setback. The south side of Swan Street is located within the C2Z. The Ryan Reserve Tennis and Netball centre is further east of the commercial strip.
- To the immediate west is a u-shaped service road managed by Council, and the Burnley Street overpass travels over the railway line. Burnley Street is an arterial road managed by VicRoads. It is located within the RD1Z. Further west, across the Burnley Street overpass, are a number of double storey offices, car showrooms, furniture stores and industrial buildings.

The Panel was also advised of a number of planning permit applications for multi storey developments that have issued for properties within 200 metres of the site, including at 423 and 437 Swan Street, directly opposite the site, as well as developments at 395 Swan Street and 67 Canterbury Road, to the north-west of the site.

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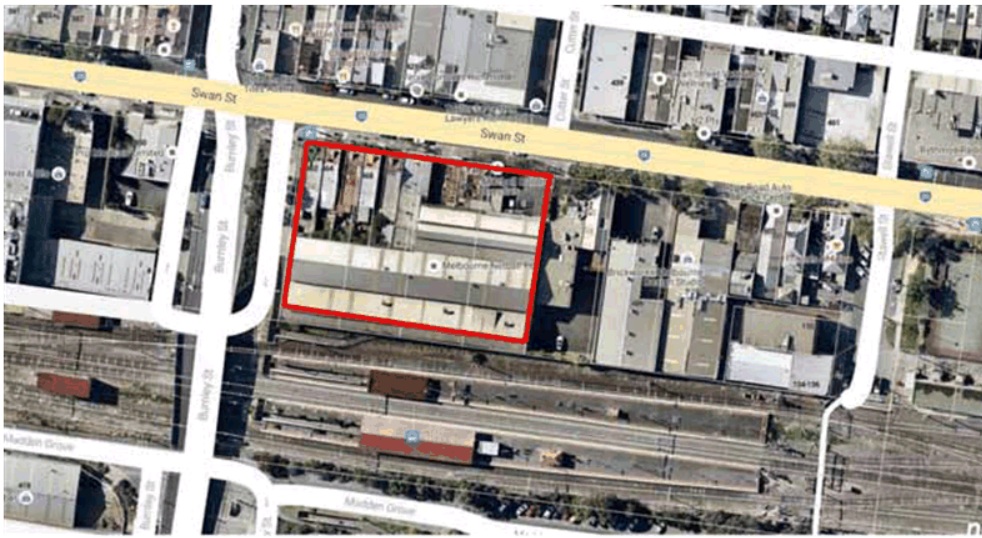


Figure 1 The subject site at 462-482 Swan Street, Richmond

1.2 Panel process

Yarra Planning Scheme Amendment C185 (the Amendment) was prepared by the Yarra Council as Planning Authority. The Amendment was prepared at the request of Bamfa Properties Pty Ltd (the proponent) and was authorised by the Department of Environment, Land, Water and Planning (DELWP) on 24 June 2016. In authorising the Amendment, DELWP noted that the following should be addressed during the Amendment process:

- *The amendment proposes mandatory maximum building height requirements through the application of DDO14. State planning policy seeks to achieve innovative, site responsive and high quality architectural design for new development. Practice Note 60 calls for 'exceptional' grounds to justify the application of mandatory building height controls. Council should strategically justify the need to apply mandatory building height controls to an area identified as a major Activity Centre at Clause 21.02 of the Yarra Planning Scheme.*
- *The State Planning Policy Framework provides direction in relation to the role of land use planning system in supporting housing diversity and affordability, with specific policy at clause 16.01-5. It is recommend(ed) that you consider the workability and wording of condition 23 (5 percent of the total dwelling provision to be affordable housing).*

The Amendment was placed on public exhibition between 21 July and 19 August 2016. There were three submissions from agencies, one from the proponent and 29 submissions from local businesses, residents and landowners. Sixteen submissions either opposed the Amendment outright or expressed opposition to significant parts of it or sought significant changes. Other submissions from both residents and local businesses supported the Amendment.

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At its meeting of 19 September 2016, Council resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 26 September 2016 and comprised Rodger Eade (Chair), and Debra Butcher.

Those in attendance at the Panel Hearing held from 23 November to 25 November 2016, are listed in Table 1.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
Yarra City Council	Terry Montebello of Maddocks Lawyers, who called the following expert witnesses: <ul style="list-style-type: none"> - Professor Rob McGauran, Architect and Urban Designer of MGS Architects - Charmaine Dunstan, Traffic Engineer of the Traffix Group Pty Ltd
Bamfa Properties Pty Ltd	John Cicero of Best Hooper Lawyers, who called the following expert witnesses: <ul style="list-style-type: none"> - John Kiriakidis, Traffic Engineer of GTA Consultants Pty Ltd - Andrew Biacsi, Town Planner of Contour Consultants - Dr Darron Cook, Economist, of Aalto Pty Ltd
Public Transport Victoria	Louise Hicks of Counsel by direct brief
VicRoads	Andrew Rasulo of Metro North West Region
Riverlee Management Pty Ltd.	Rebecca Lyons of Urbis Pty Ltd

1.3 Background to the proposal

The proponent has been in discussions about a multi-use development at the subject site for some four years. In 2012, a combined amendment and planning permit application was lodged with Council which sought to facilitate a 17 storey mixed use development on the subject site (Amendment C153). Amendment C153 sought to rezone the land from the Business 4 Zone to Business 1 Zone. On 5 June 2012, Council resolved to adopt the *Business and Industrial Land Strategy*. Council also resolved to retain the existing zone (B4Z at that time) in a number of precincts, including precinct BS13 (in which the subject site was located). Accordingly, Amendment C153 was not supported.

On 7 February 2013, planning permit No PLN11/1091 was issued by Council for the development of the land for a 4 storey self-storage facility, access to a RDZ1, use of the land for a caretaker's dwelling, and a reduction in car parking requirements. The permit has not been acted on and has now expired.

In December 2013 the Council adopted the Swan Street Structure Plan (SSSP).

On 28 January 2015, the proponent lodged a combined planning scheme amendment and permit application request under section 96A of the *Planning and Environment Act 1987*. It sought to rezone the land from C2Z to C1Z to enable a mixed use development comprising

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residential, retail and commercial uses on the land. Subsequent to this there were extensive discussions, including with relevant agencies. Council commissioned its own advice from external consultants and the planning permit application was referred internally as appropriate within Council. This resulted in amended plans being submitted in December 2015 and again in March and April 2016 as a result of further discussions. The amended plans were re-referred.

The current proposed development which will be facilitated by the Amendment and planning permit is summarised in section 1.1(ii).

The Panel was led to understand by the proponent that it had agreed with the joint planning scheme amendment and planning permit application to proceed to a Panel but that it was not necessarily happy with all aspects of what Council considered appropriate for the site. Mr Montebello submitted that while Council understood that there were some outstanding issues (particularly with respect to access to the site and the lack of agreement between VicRoads and Public Transport Victoria(PTV) on access and tram stops and potential delay to tram services because of traffic signals at the access point to the site as required by VicRoads, it had agreed to progress the Amendment in good faith on the understanding that the proponent was satisfied with the proposed development as discussed with Council. The Panel makes no further comment on this.

1.4 Summary of issues raised in submissions

The key issues raised in the submissions of the various parties are briefly summarised as follows:

(i) Planning Authority

The key issues for the Council were:

- strategic justification of the amendment
- mandatory height and setback controls
- the requirement for the provision of 5% affordable housing
- Council addressed issues raised by submitters.

(ii) Proponent

The key issues for the proponent were:

- mandatory height controls
- the provision of 5% affordable housing
- contribution towards public realm improvements
- changes to the built form of the development
- changes to planning permit conditions
- overshadowing of Burnley Railway Station.

(iii) Relevant agencies

The key issues for Public Transport Victoria were:

- delays to tram service number 70, as a result of the installation of traffic signals to access the subject site

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- the relocation of tram stops
- bus parking in the Burnley Street service roads.

The key issues for VicRoads were:

- the relocation of tram stops
- installation and operation of traffic signals to access the subject site
- loss of parking on Swan Street
- bus parking in the Burnley Street service road.

(iv) Individual submitters or groups of submitters

The key issues raised by submitters were:

- loss of heritage buildings
- traffic and parking both on site and in the surrounding area
- height and scale of the development
- impact on the amenity of the area.

1.5 Issues dealt with in this report

The Panel considered all written submissions made in response to the exhibition of the Amendment, as well as further submissions, evidence and other material presented to it during the Hearing, and observations from site visits. In general, it is only unresolved issues which are addressed in this report. Where the Panel has not commented on other issues, it is broadly satisfied with the Council position.

The Panel notes that between the exhibition period, during which submissions were lodged, and the Hearing, some outstanding issues were resolved. The use of a signalised intersection to access the subject site which was initially opposed by PTV, was accepted by them prior to the Hearing, subject to conditions.

The Panel has reviewed a large volume of material. The Panel has had to be selective in referring to the more relevant or determinative material in the report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the report.

This report deals with the issues under the following headings:

- Planning context
- Transport and parking
 - Increased congestion and delays to tram services
 - Location of tram stops
 - Bus stops and the new bus route
 - Provision of on-site car and bicycle parking
 - Burnley Street service road underpass
 - Removal of parking spaces in Swan Street
- Mandatory versus discretionary height and setback controls
- Provision of affordable housing
- Other issues
 - Urban design and the public realm
 - Height and scale

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- Overshadowing
- Heritage
- Inclusion of the Swan Street Structure Plan as a Reference Document
- contributions to public realm improvements
- Planning permit conditions.

The Panel has not included a Chapter on the form of the Amendment. The specific content of DDO14 is at dispute with respect to two issues; the proposed use of mandatory height and setback controls; and making reference to the SSSP. The Panel has addressed these issues in specific sections of this report and other than this has no further comment on the form of the Amendment.

A number of the submissions from traders and business operators in the vicinity of the subject site submitted that their land should also be rezoned to C1Z. This is not possible as such rezoning has not been proposed or exhibited as part of this Amendment and as such this issue is not addressed in this report.

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2 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report and addressed this again in its Part A submission.

The Panel has reviewed Council's response and the policy context of the Amendment, and has made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

2.1 Policy framework

(i) State Planning Policy Framework

Council submitted that the Amendment is supported by clauses in the State Planning Policy Framework (SPPF). The Panel believes that there are other clauses which support the Amendment. Combined, these are:

Clause 9 (Plan Melbourne) – which directs consideration to be given to Plan Melbourne.

Clause 10.04 (Integrated decision making) - which refers to 'balancing' different objectives in the interest of net community benefit and sustainable development.

Clause 11.01-1 (Activity centre network) - seeks to build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.

Clause 11.01-2 (Activity centre planning) - seeks to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and which are highly accessible to the community.

Clause 11.02 (Planning for growth areas) - requires that urban growth is located close to transport corridors and services and provide efficient and effective infrastructure. This includes meeting housing needs by providing a diversity of housing types and distribution.

Clause 11.02-1 (Supply of urban land) - seeks to ensure that a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

Clause 15 (Built environment and heritage) - requires that planning should ensure that all new land use and development appropriately responds to its landscape, valued built form and cultural context, and protects places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

Clause 16.01-2 (Location of residential development) - seeks to locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.

Clause 17 (Economic Development) – the objective of which is to encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

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Clause 18 (Transport) – the objective of which is to create a safe and sustainable transport system by integrating land-use and transport.

Council commented further on objectives and on strategies to achieve these aims as set out in the SPPF. The Panel is satisfied that the Council's analysis is satisfactory and that the proposed Amendment is consistent with and implements the SPPF.

(ii) Local Planning Policy Framework

Council submitted that the Amendment supports the following local planning objectives:

Clause 21.04-1 (Accommodation and housing) - recognises that Yarra is experiencing consistent residential growth and will continue to accommodate its share of the housing growth of the inner Melbourne Metropolitan region. However, in order to protect valued character, clause 21.04-1 provides that the majority of new development will be accommodated on strategic redevelopment sites.

Clause 21.04-2 (Activity centres) - seeks to maintain the long term viability of activity centres by supporting land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.

Clause 21.05-2 (Urban design) - seeks to reinforce the existing urban framework of Yarra and retain Yarra's identity as a low-rise urban form with pockets of higher development. Strategy 17.2 states *Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits.*

Clause 21.06 (Transport) - seeks to facilitate the use of public transport, reduce the reliance on motor cars, reduce the impact of traffic and provide safe and convenient pedestrian and bicycle environments.

Clause 22.10 (Built form and design policy) – has the following objectives:

- *ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character;*
- *ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design;*
- *limit the impact of new development on the amenity of surrounding land, particularly residential land;*
- *design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and 'walkability' of the City's streets and public spaces;*
- *create a positive interface between the private domain and public spaces;*
and
- *encourage environmentally sustainable development.*

Clause 22.17 (Environmentally Sustainable Development) Built form and design policy) - seeks to ensure that development achieves best practice in environmentally sustainable development from the design stage through to construction and operation and encourage

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innovative technology, design and processes in all development, which positively influence the sustainability of buildings.

Whilst some submitters questioned the scale of the proposed development and this is addressed in section 6.2, the Panel is satisfied that subject to discussions of particular issues in following sections of this report, the Amendment is consistent with and implements relevant local policy.

(iii) Other planning strategies or policies used in formulating the Amendment

Council cited the following as providing strategic support for the Amendment:

Swan Street Structure Plan

The SSSP provides a long term vision for development around the Swan Street area and seeks to guide and manage change in the area. The subject site is located in the *Burnley Station Village Precinct* identified in the SSSP. The SSSP aims to:

- *maintain and protect important employment areas and meet future local employment demand for commercial accommodation;*
- *accommodate future housing growth;*
- *manage change by directing growth to appropriate locations and encouraging a sustainable compact city form; and*
- *protect established residential areas and valued heritage character.*

The relevant Precinct is described in the SSSP as follows:

- *The precinct is largely focussed around the intersection of Burnley Street and Swan Street and provides a small local centre with a limited range of convenience retailing and assorted services.*
- *Access to tram services is excellent. However, the pedestrian links and street address of the train station could be significantly improved.*
- *Buildings are predominantly of a low scale at 1-2 storeys and existing zoning in the precinct, on the south side of Swan Street (Commercial 2 Zone). This limits future opportunities for a broader range of land uses including residential uses.*
- *The redevelopment of the GTV9 site in Stawell Street will increase the population in the local area and subsequently the demand for local convenience retailing which this centre has the capacity to fulfil.*
- *Burnley Station currently has very poor public access and general amenity. The station is largely hidden behind Swan Street and has poor connectivity to the surrounding area. 2 underpasses provide access to the station. They feel unsafe and are difficult to identify in the street network.*
- *The station has potential to provide the precinct with excellent access to public transport and offers a major opportunity for redevelopment and improvement to the station and surrounding environs.*
- *Public space at the eastern end of the precinct adjacent to Stawell Street provides good opportunities for public realm improvements.*

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- *The timber yard and adjoining sites located on the South east corner of Swan and Burnley Street are underutilised and offer potential for significant redevelopment and change in the precinct.¹*

The SSSP proposes a building height of 10-12 storeys on the subject site.

Council submitted that the following benefits would be achieved by the proposed development and that these are consistent with the SSSP:

- *greater integration of Burnley Train Station with Swan Street and the surrounding environs;*
- *encouraging less car use by concentrating land uses in close proximity to Burnley Train Station and tram routes along Swan Street;*
- *significant public realm improvements that will enhance the pedestrian environment and improve pedestrian access to Burnley Train Station and public open space to the south of the station;*
- *greater activation at street level and improved passive surveillance of the station environs from the upper levels of the proposed development;*
- *revitalising the precinct by increasing the local population of residents, visitors and workers;*
- *encouraging housing and employment in a locale that has excellent access to public transport networks; and*
- *establishing a new retail hub at the east end of Swan Street in an area where a convenience retail offer has been lacking, including the provision of a full line supermarket to meet the daily needs of residents, visitors and workers.*

Council Plan 2013-2017

The *Council Plan 2013-2017* recognises that much of Yarra's significant residential development is in activity centres.

Yarra Economic Development Strategy

The *Yarra Economic Development Strategy (2015-2020)* refers to the SSSP as a relevant strategy in relation to the strategic goals pertaining to 'The Smart City' and 'Vibrant and Thriving Precincts'.

Yarra Environment Strategy 2008 – 2012

The *Yarra Environment Strategy (2008-2012)* is a key document for guiding planning and decision-making that impacts the Yarra environment and community. It is an overarching strategy and informing document for all other environmentally related Council strategies, plans and initiatives.

¹ At page 36 of the SSSP.

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2.2 Planning scheme provisions

(i) Zones

It is proposed to apply the C1Z to the subject site. The purpose of this zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
- *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*

(ii) Overlays

It is proposed to apply DDO14 and an EAO to the site. The latter is considered appropriate to former industrial uses on part of the site and has not been contested. Those aspects of the DDO that were contentious, being the mandatory controls and the inclusion of the SSSP as a reference document are discussed at Chapters 4 and 6 respectively.

(iii) Particular provisions

The following Particular Provisions in the Planning Scheme which are relevant and are discussed as appropriate in later sections of this report.

Clause 52.06, Car parking

Clause 52.07, Loading and unloading facilities

Clause 52.29, Land adjacent to a road zone, category 1, or a public acquisition overlay for a category 1 road

Clause 52.34, Bicycle facilities

Clause 52.35, Urban context report and design response for residential development of five or more storeys

Clause 52.36, Integrated public transport planning

(iv) General provisions

Clause 65 Decision Guidelines is relevant to the planning permit application component of the proposal.

2.3 Ministerial Directions and Practice Notes

(i) Ministerial Directions

The following Ministerial Directions are relevant:

Ministerial Direction No 1 – Potentially Contaminated Land

The Amendment responds to this Ministerial Direction via the application of the EAO to the site (refer to the further discussion below).

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Ministerial Direction No 11 - Strategic Assessment of Amendments

The Amendment is consistent with Ministerial Direction 11 (Strategic Assessment of Amendments) and Planning Practice Note 46 (Strategic Assessment Guidelines). Council has undertaken a strategic assessment of the Amendment.

The Form and Content of Planning Schemes (s7(5))

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.

(ii) Planning Practice Notes (PPN)

PPN13 Incorporated and Reference Documents

This PPN identifies the circumstances in which it is appropriate to include a document as a Reference or incorporated Document in the Planning Scheme. This is of relevance to discussion about whether to include the SSSP as Reference Document in DDO14.

PPN30 – Potentially contaminated land

The Amendment is consistent with PPN30 in that it is proposed that the EAO be applied over the subject site in order to address any contaminated land issues which arise as a result of previous and current non-residential uses.

PPN59 – The role of mandatory provisions in planning schemes

This PPN sets out criteria that can be used to decide whether the use of mandatory provisions may be appropriate in the Planning Scheme, in this case in DDO14.

PPN60 – Height and setback controls for activity centres

This PPN sets out the preferred approach to the application of height and setback controls in activity centres.

The consistency of the Amendment with PPN59 and PPN60 was a major issue of dispute between Council and the proponent at the Hearing and are discussed in detail in Chapter 4.

2.4 Discussion

The broad strategic justification of the Amendment is not at issue and is agreed between the Council and the proponent. Some aspects of the proposed development were contested by individual submitters and these are addressed under appropriate headings in other sections of this report. The Panel notes that in its written submissions Council did not reference *Plan Melbourne* as providing strategic support for the Amendment. However, in providing expert evidence for the proponent, Mr Biacsi references a number of clauses and directions in *Plan Melbourne* which support the Amendment and the Panel agrees with Mr Biacsi's assessment.

The role that the SSSP should play in the Amendment was, however, a point at issue. It is uncontested that its status is as a Council adopted strategy. The Panel notes that as the SSSP is not referenced in the Planning Scheme it has not been through rigorous scrutiny and been tested in a transparent public process. The extensive consultation which the Panel understands has been part of the process of its development is not a substitute for this. For

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this reason, the weight that the Panel can place on the strategic support given for the Amendment is limited. The Panel notes that this was acknowledged in the Council's Statutory Planning Assessment Report which stated (in relation to the SSSP) *"Accordingly, whilst this document can be considered, it has limited statutory weight and cannot be relied upon to determine this application"*.

Mr Cicero, supported by expert evidence from Mr Biacsi, submitted that the SSSP should not be referenced in the Planning Scheme by reference to it in DDO14. The Panel was informed by Mr Montebello that it was Council's intention to formalise the status of the SSSP through a forthcoming amendment to the Planning Scheme. The Panel addresses this issue in section 6.6.

2.5 Conclusion

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions, and as discussed in the following chapters.

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3 Transport and parking

3.1 The issues

The transport and car parking issues addressed are:

- whether the delays which the proposed development may cause to the Route 70 (Swan Street) tram services are acceptable and whether there are offsets which make any delays experienced, acceptable
- whether the existing outbound tram stop currently located to the west of Burnley Street should be relocated as part of an Easy Access Stop (EAS) project
- how the issue of the existing bus stops in Burnley Street and a potential bus stop for a new route should be addressed
- whether the proposed reduction in the statutory car parking provision on site is acceptable
- whether the removal of parking spaces in Swan Street as a result of the provision of traffic signals and other works is appropriate
- how loading requirements for the retail components of the development can be addressed given the current height restrictions on the Burnley Street underpass.

3.2 Increased congestion and delays to tram services

(i) Evidence and submissions

The installation of fully directional traffic signals at the entrance to the site, opposite Cutter Street, while initially a contested issue was broadly agreed by experts and submitters. At the Hearing, Ms Louise Hicks for PTV confirmed that PTV had accepted that traffic signals are required, however expressed concern about delay to tram service 70.

In expert evidence for the proponent, Mr John Kiriakidis from GTA Consultants provided output from SIDRA modelling across a length of 640 metres of the Swan Street corridor demonstrating that delays to trams would vary between 7 seconds and 17 seconds. The length of the delay depends on the direction of tram travel and between the afternoon peak hour and the Saturday midday period. Further factors influencing delays are: traffic light sequencing; the number and location of car parking spaces; and the format and location of tram stops. Under cross examination, Ms Charmaine Dunstan from the Traffix Group who gave traffic evidence for Council, stated that such delays were acceptable from a traffic perspective.

Dr Darron Cook from Aalto Pty Ltd, in giving evidence for the proponent estimated the cost to the community of these delays over a 10-year period, using a 7% discount rate, to be of the order of \$500,000. He described the delays to tram services as a result of the development as modest.

Ms Hicks submitted that:

Planning for the site should ensure that existing public transport passengers are not inconvenienced by longer travel time and less reliability as a result of the site's development.

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She presented data showing the reduction in travel speed along undivided arterial roads in Melbourne between 1999 and 2009 and noted that Melbourne already has one of the slowest tram networks in the world. Ms Hicks further questioned the use of SIDRA as the tool for measuring the delay to tram services, something it was not designed for. She submitted to the Panel that Mr Kiriakidis' firm had been commissioned by a former government to undertake work on parking and access controls for arterial road corridors with a view to reviewing parking requirements for developments such as the one proposed for the subject site. This work could have led to the use of a more appropriate methodology for understanding delays caused. This work did not proceed because of a change in government, but may have provided a more useful assessment tool than output from SIDRA.

In supporting her contention of significant delays to tram services, Ms Hicks submitted that other recent signalisation works at the Haymarket roundabout in North Melbourne and O'Hea Street in Coburg have resulted in significant delays to tram services.

In presenting her submission, Ms Hicks highlighted the cumulative nature of delays from this and other potential developments along the corridor.

Ms Hicks submitted that there should be some offset for the delays to tram services, including possibly the relocation of the outbound stop to a position east of Burnley Street and constructed as an EAS, funded by the proponent.

In reply Mr Montebello submitted:

... Council will be interested in the outcome of the Panel's review of this issue if, for no other reason that the SSSP rezoning along Swan Street will undoubtedly bring significantly more development, population and vehicle movements into this area and we do not discount the possibility of other signalised intersections being required along the route from time to time.

In his right of reply, Mr Cicero was critical of the PTV submissions presenting possible mitigating works which were not fully developed or costed and he rejected the proposal that his client should be expected to pay for such a proposal. He submitted that the location and construction of an EAS would need to be the subject of lengthy negotiation and consultation processes which were outside the scope of this Amendment.

As the Panel was concerned about fully understanding the magnitude of the potential delays to tram services, it requested information from PTV on the travel times for tram route 70 and the actual variation in travel times. The data provided by PTV, post Hearing, shows that on average actual travel times on the route in both directions were some 4 minutes longer than the scheduled journey. The average length of journeys over the route is some 81-87 minutes, depending on the time of day.

Mr Cicero sought to convince the Panel that the significant public realm improvements being funded by the proponent should be considered as partly offsetting any costs associated with potential tram delays. The issue of contributions to public realm improvement is addressed as a separate issue in section 6.6.

There was some debate at the Hearing about the application of the SIDRA model, its outputs and which version of the model was used in various parts of the analysis. This is not

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reported here as it is not considered by the Panel as critical to its discussion and conclusions on this issue.

There was further evidence at the Hearing on the impact of the location of the outbound tram stop on traffic which in turn results in delays to tram services. This is not presented in detail here.

A number of submitters including Ms Georgina Kyriakopoulos, Mr Iain Peters, Ms Sheree Goodall and Mr Stephen Jervis and Ms Brooke Boger raised the issue of the increased traffic that the proposed development would generate in the area and the increased congestion resulting.

(ii) Discussion

The Panel acknowledges that the proposed development will generate car trips and that this will result in increased congestion. This appears inevitable but is not considered by the Panel reason enough to not support the proposed Amendment. The further discussion on this issue is framed in terms of the impact that the increased congestion will have on delays to tram services as this was the issue that occupied a significant amount of time at the Hearing.

The Panel is of the view that, given the methodology used, the likely delay to trams should be regarded as indicative only and likely to be influenced by the cycles set for the new signalised intersection, a matter beyond the scope of this report. It is also likely to be impacted by the future location of the outbound tram stop which is the subject of discussion in the next section. Tram delays are likely to be impacted by any further changes that might occur to traffic flows in the time until the proposed traffic signals are installed and operational and any other mitigating works which might occur. From the Panel's perspective there is little benefit in trying to refine the existing inappropriate model at this stage, in an effort to more accurately predict likely delays. Whether the delays are as modelled or even twice the modelled level, that impacts little on the conclusions that the Panel draws.

There appears to be little dispute that some delay in tram services is likely to occur.

The Panel requested further information on travel times for the route 70 tram to put these delays into context. A 15 second delay is small in the context of a trip of some 85 minutes. However, it is significant in the context of the average four minutes that trams on this route already run behind schedule. No data was requested on how much the scheduled run time has changed over recent years.

The Panel notes the tram travel times in various cities around the world and that Melbourne has slow services in this context. There are, however, so many factors that can impact travel times it is not clear how much weight can be placed on this comparison. The Panel is of the view that there was no evidence put before it that leads it to conclude that the delays to tram services resulting from this development are likely to be unacceptable.

Whilst not of immediate relevance in this particular instance, the Panel is cognisant of other developments occurring in the immediate vicinity of the subject site and while none require signalised access to Swan Street as far as the Panel is aware, they will all generate some

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traffic that will enter the network and impact traffic flows and the performance of the road network. In reply, Mr Montebello drew the Panel's attention to this issue.

The Panel further accepts that there may be a case for some mitigating works funded by development, where developments individually and cumulatively, delay public transport services. This may be the case with a road passing through an essentially linear activity centre such as Swan Street.

However, the Panel is of the view that it is incumbent on PTV to present a case that looks at individual developments in the context of a broad future development scenario and potential cumulative impacts over a period of time and a carefully developed program of mitigation works which are at least indicatively costed. It is not appropriate for a series of ad hoc proposals to be considered in isolation from one another. In terms of funding mitigating works, the Panel notes that there is currently no mechanism it is aware of outside the use of permit conditions and section 173 agreements to impose such charges on development. This is in contrast to the situation in greenfield growth areas where a case can be made for contributions from development through well-established mechanisms.

Outside the context of such strategic work by PTV, the Panel is of the view that it is not appropriate to impose the cost of mitigating works on this development in this instance. Ideally such work by PTV should be undertaken in the context of the preparation of land use structure plans.

It was not contested that traffic signals are required at the entrance to the site to provide safe and convenient access. The Panel does not believe that the potential delays to tram services outweigh the benefits of installing the traffic signals.

(iii) Conclusions

The Panel concludes:

- that there will be small but significant delays to tram service number 70, as a result of the development
- that no case has been made in this instance for the proponent to fund any mitigating works to be undertaken to reduce tram delays, other than those included as recommended permit conditions
- a case can be made for contributions to works to mitigate the impacts of such delays in the future but only in the context of a strategic assessment of a broad development scenario and in the context of the likely cumulative impacts of developments on delays to tram services.

3.3 Location of tram stops

(i) Evidence and submissions

The Panel notes that the future location of tram stops has been tied to tram delays and the funding of tram stop relocation discussed briefly in the previous section. However, the location of tram stops is raised as an issue in its own right. Ms Hicks submitted that the existing outbound tram stop which is located on the north side of Swan Street, west of Burnley Street should be relocated east of Burnley Street and upgraded to an EAS. Mr Adrian Rasulo for VicRoads submitted that VicRoads would have some concerns about an

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EAS in this location. In his right of reply, Mr Cicero submitted that whilst an EAS has broader community benefits it should be funded by the community, not individual developers.

Mr Montebello submitted in reply that:

- *it is not clear whether the relocation is actually necessary to reduce delays as compared to for example playing with the signals software;*
- *it is not clear whether it is possible to relocate the tram stop given the VicRoads' Road Design Note; and*
- *it is not clear that doing so would be effective in reducing the delay.*

In evidence, Mr Kiriakidis stated that the PTV '*proposal is not consistent with conventional road design practices which seek to locate tram stops on the approach side of intersections*' to avoid a situation where cars queue back through an intersection when a tram stop is located on the departure side of an intersection.

(ii) Discussion

The Panel acknowledges that the location of the tram stop is closely tied to both traffic delays and possible mitigation works but considers that the future location of the tram stop is an issue in its own right. This said, the Panel does not consider it appropriate for it to address the issue in detail at this stage as the location and development of EAS are subject to a range of separate processes and consultations that should not be linked to the current process.

(iii) Conclusion

The Panel concludes:

- the relocation of the outbound tram stop to the east side of Burnley street should not be considered as part of the current Amendment process.

3.4 Bus stops and new bus route

(i) Evidence and submissions

There are two bus stops currently located in the Burnley Street service road, as follows:

- 'Bus Zone' from 7pm to 1am located close to the Swan Street entrance to the service road
- 'Rail Replacement' 8pm to 6am starting just before the service road turns under the overpass, through to a position under the overpass.

During the day, parking in the Burnley Street service road is unrestricted in the area where these night time bus stops are located. The Burnley Street service road is one way in a clockwise direction, with traffic entering the service road east of the overpass and exiting it on the western side of the overpass.

Ms Hicks submitted that provision needs to be retained for bus parking for these two purposes. She further informed the Panel that PTV has a proposal for a new bus route which would service Burnley Railway Station and that provision needs to be made for a bus stop to service the proposed route when it is established. Ms Hicks indicated that PTV was seeking funding to establish the bus route.

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There was some debate at the Hearing about where these bus stops should be located after the development occurs. Ms Hicks submitted that they should be located as close to the Swan Street end of Burnley Street as possible to ensure that there is good access to the start of the *Disability Discrimination Act 1992* (DDA) compliant ramp which is proposed to be provided by the proponent as part of the development. The start of that ramp will be much closer to Swan Street than the existing ramp which is too steep to be DDA compliant. Mr Kiriakidis, under cross examination by Ms Hicks, conceded that bus stops in their current locations would place them further away from the entrance to the access ramp than currently.

Related to this were submissions and evidence about the width of the proposed carriageway in the Burnley Street service road and the ability of supermarket delivery vehicles to access the loading dock on the west side of the site before 6am, if there was a bus parked in the service road between Swan Street and the entrance to the loading dock. As part of his evidence, Mr Kiriakidis provided swept path diagrams to show that an 11.4 metre delivery vehicle could access and leave the loading dock via the Burnley Street service road. Mr Rasulo urged caution on any proposal to make the service road wide enough for such a delivery vehicle to pass a parked bus in the service road by proposing widening of the service road on the overpass side of Burnley Street service road. He indicated that the impact of any such proposal on the structural integrity of the overpass would need to be assessed by VicRoads engineers.

There was disagreement between traffic experts at the Panel about the width of buses likely to be parked in the service road. Under cross examination Ms Dunstan indicated a bus width of 2.5 metres plus a 3.5 metres traffic lane as necessary. Mr Kiriakidis stated that the service road may be 5.5 metres wide or perhaps up to 6 metres as proposed by Ms Dunstan.

No conclusive information was provided to the Panel on the required width of the service road, although the swept path analysis prepared by Mr Kiriakidis would appear to indicate that there would not be room for the delivery truck modelled in his swept path analysis to pass a parked bus. No plans provided to the Panel provide any conclusive information on the proposed width of the service road abutting the subject site. One plan indicates a width of 4.7 metres but it was unclear about where the western extent of this measurement is actually located in relation to the batter of the overpass.

(ii) Discussion

The first point the Panel makes with respect to the location of bus stops is that no information was presented to it which convinces it that the two existing bus zones cannot be combined into one bus zone given the significant overlap in their restriction hours up until 1am. The Panel accepts that there needs to be provision for these bus zones. With respect to the provision of a bus zone for the proposed new service, no information was provided to the Panel to allow it to draw any conclusion on the likelihood of such a service being funded or likely time lines. The Panel is aware that there are numerous proposals for new bus routes throughout Melbourne, particularly in growth areas. That said it would be short sighted not to provide for such a service as part of the proposal.

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It is noted, however, that the time which a bus on such a potential new service was stopped in the service road would be expected to be quite short, allowing for passengers alighting and leaving the bus. If the bus stop was located in the service road abutting the development and the road width was not sufficient to allow a supermarket delivery vehicle to pass, the time delay to the delivery vehicle may be minimal, in relation to its overall unloading time. Similarly, if the existing bus zones were located in the service road abutting the development and a bus was parked there just before 6 am it appears likely that any delivery vehicle wishing to access the supermarket loading dock before 6am is more likely to be a relatively small vehicle delivering milk and bread etc.

From the information presented, it is unclear to the Panel what minimum road width would be required in this location. From the Panel's perspective the most appropriate outcome would be for the bus zones, possibly combining all three bus stopping requirements, including a new service when it commences, would be in the service road, abutting the development if the road can be wide enough to accommodate a parked bus and smaller delivery vehicles. However, this cannot be resolved until further work is undertaken to resolve the width of road that can readily be provided in this location, taking into account VicRoads concerns about the overpass. In the absence of such detail it would be inappropriate for the Panel to recommend that this option be adopted.

If there are road width restrictions which will not make this option workable, the other alternative is to provide for the bus stops on the south-western side of the entry to loading dock and under the overpass. Such a solution may require road works in this area and the loss of proposed taxi stops in the underpass. The Panel is of the view that such works should be the responsibility of the proponent. The issue of the height restriction in place for the underpass is addressed in section 3.6.

(iii) Conclusions

The Panel concludes:

- that the three bus stop types indicated by PTV as required, be combined if possible
- if the width of the service road can be wide enough for smaller delivery vehicles to pass a parked bus, the bus stops should be located in the service road abutting the site
- if the service road cannot be widened to accommodate small delivery vehicles passing a parked bus in the area abutting the site, the bus stops should be located further to the south west past the entry to the loading dock
- required works should be the responsibility of the proponent.

3.5 Provision of on-site car and bicycle parking

(i) Evidence and submissions

This issue is addressed in part because it is raised by submitters including Ms Judith Drill, Ms Georgina Kyriakopoulos, Mr Iain Peters, Ms Sheree Goodall, and Mr Marc Doherty and in part because it is proposed that the car parking provision is reduced below the statutory requirement of Clause 52.06 which indicates that 472 on site car parking spaces should be provided plus spaces to accommodate the gymnasium. Mr Kiriakidis calculates the required

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statutory provision at 491 car parking spaces (which includes an allowance for car parking associated with the swimming pool). The proponent proposes to provide 445 on-site car parking spaces. Based on Ms Dunstan's calculation of the statutory requirements, there is a numerical shortfall of at least 27 car parking spaces.

In evidence, Ms Dunstan provided a car parking demand assessment which considered the likely demand generated by each of the proposed uses. In undertaking this analysis, she examined peak demand by visitors and users of the proposed non-residential uses. She concluded that at peak demand in the late afternoon that there would be 204 spaces required but 232 provided, that is an excess of 28 spaces. This is in addition to parking provision for the residential uses, for which 213 spaces are provided, making up the provision of 445 spaces.

In his expert evidence, Mr Kiriakidis stated that there should be provision of 220 spaces for residents and a further 46 long term spaces for non-residential uses. In addition, he calculated a demand for a further 126 spaces as being required at the peak for short term use. He based his demand analysis on a combination of empirical analysis at other similar sites and what he describes as rule of thumb calculations for some uses.

Mr Kiriakidis estimates a total demand for 392 spaces, meaning that the provision of 445 spaces results in an excess of 52 spaces. This compares with Ms Dunstan's calculation of at least 28 spaces provided in addition to demand.

According to Mr Kiriakidis, it is proposed that a total of 327 bicycle parking spaces will be provided. This is well in excess of statutory requirements.

Ms Drill raised the issue of train and tram commuters using the provided parking.

(ii) Discussion

It is accepted by the Panel that the car parking provision will be below statutory requirements, but given the very good access from the site to tram and train services this is not considered to be a problem. The Panel does not undertake any analysis of the parking demand calculations of Ms Dunstan and Mr Kiriakidis, which, although differing somewhat in their outcomes, both show that the parking provision will be satisfactory. The Panel concludes that bicycle parking provision is more than adequate.

With respect to commuters using the provided parking as raised by Ms Drill, the Panel assumes that parking will be time restricted, as is the norm, to manage this.

(iii) Conclusions

The Panel concludes:

- that the provision of car and bicycle parking spaces as proposed is satisfactory.

3.6 Burnley Street service road underpass

(i) Evidence and submissions

Both Ms Dunstan and Mr Kiriakidis agreed that the existing 3.8 metre height limit applying to the Burnley Street underpass has the force of law and that it is illegal for vehicles above this height to pass under it. This is despite evidence from Mr Kiriakidis that the minimum

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clearance of the underpass is in fact 3.9 metres and that for most of its width, a clearance in excess of 4.2 metres exists. However, in his expert evidence Mr Kiriakidis acknowledged that he had been advised that a prospective tenant of the supermarket will rely on vehicles which are 4.0 metres high and 11.2 metres long.

At the experts' conclave, Ms Dunstan, Mr Rasulo and Mr Noy agreed that it was necessary to restrict the height of vehicles using the loading dock by way of a section 173 agreement. Under cross examination by Mr Cicero, Ms Dunstan acknowledged that it is not necessary to have a section 173 agreement to tell someone what the law is regarding bridge clearances. Mr Cicero submitted that he could see no need for such an agreement but accepted that the maximum height of vehicles using the loading bay could be a condition of the planning permit.

Mr Rasulo submitted that VicRoads would not accept the altering of the existing low clearance sign on the basis of the evidence of Mr Kiriakidis, but under questioning from the Panel, indicated that he would not completely rule out the altering of the clearance restriction. He indicated that it would be subject to a separate process.

In questioning by the Panel, Mr Kiriakidis acknowledged that the onus is on the operator of the supermarket to seek a change to the height restriction of 3.8 metres if that is what they need in order to make their unloading operations workable.

In addressing issues such as the hours of operation of the loading dock, the management of vehicles using the unloading facilities, and loading associated with the small retail uses, Mr Kyriakidis suggested in his expert witness statement that there be a requirement for the proponent to prepare a loading management plan.

Ms Judith Drill submitted that the Burnley Street service road needs to be widened to accommodate the loading and unloading that will occur in the proposed loading dock.

(ii) Discussion

It is clear that a vehicle 4 metres high as indicated to Mr Kiriakidis is proposed to be used by the potential supermarket operator will not be able to leave the supermarket loading area and therefore cannot be used to supply the supermarket. The operator has the alternative of using trucks which conform to the 3.8 metre clearance limit on the Burnley Street underpass, or to successfully apply to VicRoads to have the clearance limit changed to accommodate the vehicles proposed to be used for supplying the supermarket.

Mr Kiriakidis has proposed that a loading management plan be developed for the loading dock but the Panel understands that the intent of that plan is to manage the logistics of the operation of the loading dock and would not address the issue of the maximum height of vehicles using the loading dock.

From the Panel's perspective the issue of the maximum height of vehicles and the height restriction is an issue which remains to be resolved. The parameters of the issue are clear but a resolution is not. Either trucks which are a maximum of 3.8 metres high must be used or the height restriction on the underpass changed, or a combination of both. The Panel does not see that the lack of resolution of this issue is fatal to it recommending the Amendment be adopted and a planning permit issued.

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The Panel supports the proposal for a loading management plan to be required as suggested by Mr Kiriakidis as it considers that it could be helpful in addressing any issues associated with the loading and unloading activities of the other retail tenancies and the other commercial uses, as well as the future interactions that may occur with buses in the service road.

(iii) Conclusions

The Panel concludes:

- there is no need to impose restrictions on the height of vehicles using the proposed loading dock as the law is clear that they must be a maximum of 3.8 metres in order to exit the site
- how this issue is resolved is yet to be determined but is not sufficient to hold up the Amendment or planning permit
- the planning permit should include a condition requiring a loading management plan.

3.7 Removal of parking spaces in Swan Street

(i) Evidence and submissions

It is proposed that as part of the development a number of existing car parking spaces in Swan Street be permanently removed.

The outcome of the conclave of traffic engineers and agency representatives concluded as follows:

GTA, Traffix Group and VicRoads agree that 6 car spaces would be removed on the north side of Swan Street west of Cutter Street as depicted in... (see yellow lines in Fig 2)

GTA, Traffix Group and VicRoads agree that 3 spaces would be removed on the east side of Cutter Street on the signal approach as depicted in ... (see yellow line Fig 2)

GTA, Traffix Group and VicRoads agree with the extent of parking removal; depicted in ... (see yellow lines in Fig 2) as it relates to the south side of Swan Street east of Burnley Street. GTA recommends removal of 2 further spaces to the east of the depicted area and these 2 spaces reflect the actual number of spaces that would be removed beyond the statutory No Stopping distance for the traffic signals.

Traffix Group recommends the removal of the single car space on the south side of Swan Street west of Burnley Street. VicRoads does not object to this proposal. GTA considers that the removal of this space is unnecessary, based on the analysis that has been completed to date.

As a result of the conclave the only removal of parking spaces which is in dispute are:

- the two spaces on the south side of Swan Street, east of the spaces agreed to be removed as depicted in Figure 2
- the single space on the south side of Swan Street west of Burnley Street.

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In evidence, Ms Dunstan indicated that the extra two spaces which Mr Kiriakidis submitted should be removed from the south side of Swan Street east of those agreed to be removed, could be considered for removal at a later date depending on post development traffic conditions and the performance. Mr Kiriakidis advocated for their removal now.



Figure 2 Swan Street parking spaces for removal

With respect to the one parking space west of Burnley Street which Ms Dunstan suggests be removed, she stated that it contravenes existing statutory requirements for parking spaces near signalised intersections. Mr Kiriakidis stated that analysis undertaken by him indicates that the removal of this parking space would have little impact on performance of the intersection and its removal is not necessary.

(ii) Discussion

The Panel accepts the removal of parking spaces as agreed at the experts' conclave and as represented by the yellow lines in Figure 2² with the exception of the one space west of Burnley Street. The Panel is aware that the removal of on-street car parking can be controversial with traders and is of the view that the spaces on which agreement on removal has not been reached should be retained at this stage pending further post development analysis should this be considered appropriate.

(iii) Conclusions

The Panel concludes:

- parking spaces agreed by the experts' conclave as appropriate to remove, should be removed as part of the development. As a result, Condition 27 (d) of the exhibited planning permit should be deleted

² Figure 16 from the expert witness report by Ms Charmaine Dunstan.

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- parking spaces not agreed for removal by the experts' conclave should be retained at this stage and considered for removal at a later stage if post development analysis shows that their removal can be justified on traffic performance grounds and a condition be included in the planning permit to this effect.

3.8 Recommendation

The Panel makes the following recommendation:

1. **Amend the planning permit as set out in the Panel recommended version at Appendix C.**

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4 Mandatory versus discretionary height and setback controls

4.1 The issue

Council proposes mandatory height and setback controls in Clause 2 of the exhibited DDO14. The Minister's authorisation for the Amendment has required that these be strategically justified. This is in line with PPN59 and PPN60. The issue is whether mandatory controls are justified in this case?

If it is determined that mandatory controls are not strategically justified, then a further issue is whether DDO14 as drafted remains appropriate in the context of discretionary controls.

4.2 Evidence and submissions

There were a number of submitters, including Riverlee Management Pty Ltd, Zagame Group Pty Ltd, Pure Projects (Vic) Pty Ltd and Dorman Capital Investment Group Pty Ltd that submitted mandatory controls are not appropriate for the site.

Mr Montebello submitted at the Hearing (page 29 of Document 5) that:

- *There is a strong case that exists for height and set back provisions; and*
- *There are exceptional circumstances that justify the imposition of mandatory heights in this case acknowledging that their application is not a precedent for the next amendment dealing with the Swan Street Corridor.*

In coming to this conclusion, Mr Montebello stepped through a series of considerations/issues which provided justification for this position.

Further to the background to the Amendment set out in section 1.3, Mr Montebello described how throughout the discussions leading to the Amendment, Council emphasised the need for certainty around built form outcomes (principally height) as well as the need for the project to achieve broader public benefits.

Mr Montebello also highlighted the important role of the SSSP, from Council's perspective, in terms of determining appropriate heights and providing strategic support for the Amendment.

Before turning to the discussion of PPN59 and PPN60, Mr Montebello made the observation that PPN59 was just 'wrong' and that the 'exceptional circumstances test' is no longer appropriate. In making this observation Mr Montebello highlighted the important role that mandatory provisions have to play in the planning system, and noted that "*over the last 5-10 or so years there has been a clear tendency towards the broader use of mandatory provisions in the planning system*" and provided examples of such mandatory provisions.

Notwithstanding his view in relation to PPN59, Mr Montebello then addressed each the five key criteria listed at PPN59 for the application of mandatory provisions as summarised by the Panel in Table 2.

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Table 2 Council response to Planning Practice Note 59 criteria

Criteria	Council Assessment
Is the mandatory provision strategically supported?	Mr Montebello submitted that the provisions proposed at Clause 2 of exhibited DDO14, clearly are strategically supported, primarily by the SSSP. He submitted that the proposed mandatory controls clearly seek to implement the built form objectives of the SSSP and that the SSSP clearly identifies the subject site as being appropriate for taller development. Consistent with this first criteria, he submitted that the mandatory provisions are necessary to ensure the implementation of an appropriate built form outcome for the site, noting that, as this is one of the first sites to be developed in the context of the SSSP <i>"... at the outset of that cycle of change, we submit that clarity and certainty are key and reasonable considerations"</i> .
Is the mandatory provision appropriate to the majority of proposals?	Mr Montebello submitted that given this was a site specific control that was being considered, as opposed to an area based control, that <i>"it is difficult if not impossible for us to address this criteria"</i> . Nonetheless, he then went on to state <i>"However, and again without inviting the panel to make any comments on this aspect of the SSSP in any detail, we make the observation that the approach to heights in the SSSP has been on an area basis and the rationale for this is clearly set out in the text of the document ..."</i>
Does the mandatory provision provide for the preferred outcome?	It was Mr Montebello's submission that this criterion is met insofar as the mandatory controls will ensure there is no ability for further applications to be made for this site allowing for higher development and that this will avoid the situations that have occurred on other sites throughout Yarra where <i>"taller developments have been kept down only after significant challenge and litigation"</i> . Mr Montebello also noted that because the current zoning doesn't provide for residential development there is no clear evidence of taller development or activity in this area.
Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?	Mr Montebello's submission in this regard was that the criteria <i>"is unhelpful"</i> as it <i>"calls upon one to speculate as to what heights buildings will be applied for"</i> (in the absence of the proposed mandatory controls). Nonetheless he went on to submit that the SSSP clearly identifies the planning outcomes which are inappropriate for Swan Street and that it would not be consistent with orderly and proper planning if isolated sites along Swan Street are developed with 'high rise' development due to each site being considered on its merits.

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Criteria	Council Assessment
Will the mandatory provision reduce administrative costs?	Mr Montebello submitted that the mandatory controls would reduce administrative costs as it would provide certainty and therefore avoid the potential for a costly dispute at VCAT if the mandatory controls are not imposed and the developer lodges an application in the future seeking greater height.

Mr Montebello then addressed PPN60 in some detail. The key elements of his submissions in relation to PPN60 can be summarised as follows:

- That the SSSP responds to the requirements of PPN60 insofar as it provides a sound basis for the identification of preferred built form outcomes in the Swan Street Activity Centre based on clear objectives, taking into account significant opportunities for change. Accordingly, Mr Montebello submitted that there is a strong case, pursuant to the requirements of PPN60, for height and set back provisions.
- That there are 'exceptional circumstances' that apply to this site that justify the imposition of mandatory heights. Mr Montebello submitted that the site was in a sensitive location given, firstly, its abuttal to the south with the Burnley Station precinct and the need to protect that precinct from any further shadow beyond that generated by the proposal before the Panel and, secondly, the historic character of the streetscape along the north side of Swan Street. Mr Montebello also submitted that any additional height will change the balance within the precinct and *"will then also affect expectations of other sites and slowly, it brings undone the SSSP"*. Finally, in relation to this issue of 'exceptional circumstances', Mr Montebello submitted that the inclusion of a permit application with a rezoning and the consideration of a site preceding the consideration of the broader area, was unusual and, further, that the proponent had not previously raised an issue in relation to the mandatory controls.

In his closing submission for Council, Mr Montebello submitted that the SSSP was drafted *"to inform the outcomes sought, that is to say, the end result that planning controls need to be drafted to achieve"*. He went on to say that where discretionary controls apply it seems that there is a *"constant propensity to ask for a little bit more"*. On that basis, Mr Montebello submitted that should discretionary controls be supported in the case of the subject site (noting that this was clearly not Council's preferred approach) then to meet the desired outcomes of the SSSP the DDO would need to be rewritten, including giving consideration as to in what circumstances it might be appropriate to exceed the preferred height limits.

In arguing for the use of mandatory controls Mr Montebello also relied upon the evidence of Professor Rob McGauran, who supported the use of mandatory controls for the site. In relation to this issue, Professor McGauran stated (at paragraph 77 of his expert statement):

Where development is to be staged and where the outcome is unknown but the planning merits of rezoning are clear, I have been supportive typically of discretionary heights. That is not the case in this instance. In this instance the Panel has a clear proposal before it for a discrete site without the Swan Street

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corridor at a critical location of interface with the Burnley Station and the Activity Centre’.

In his evidence in chief, Professor McGauran went on to note that the broader structure plan area might not require mandatory provisions, however he reiterated that he believes they should be mandatory for this site.

Under cross examination by Mr Cicero, Professor McGauran was asked whether he considered that the subject site met any of the examples of ‘exceptional circumstances’ outlined in PPN60. He noted that DDO controls typically apply to broader areas rather than one site and so in this instance the single site nature of the control could provide justification for the mandatory provisions.

Professor McGauran also noted that if the DDO controls were to be discretionary, that the DDO would require more detail and that there should be a lower height nominated in it than the current (42 metres), with greater height only allowed with increased public realm outcomes and public benefits. In this context, Professor McGauran agreed with Mr Cicero that if there were discretionary controls there would be greater opportunity to provide affordable housing in the future.

Both Mr Cicero in his submission, and Mr Biacsi in his evidence statement also addressed the issue of mandatory versus discretionary height controls.

In relation to this issue, Mr Biacsi stated the following (at paragraph 82 of his expert statement):

I generally do not support mandatory maximum building heights particularly in circumstances where the Amendment land is located in a MAC, is an identified Strategic Redevelopment Site, located directly adjacent to a railway station and where there are no identified sensitivities in terms of heritage or streetscape character. I would regard the application of mandatory provisions to the Amendment land in this case as being unwarranted and unjustified in the context of Planning Practice Notes Nos. 59 (the Role of Mandatory Provisions in Planning Schemes) and 60 (Height and Setback Controls for Activity Centres (DELWP, June 2015).

Under cross examination by Mr Montebello, Mr Biacsi advised that he wasn’t “blindly wedded” to discretionary controls, however the planning system is fundamentally a performance based system and not about prescriptive controls.

He noted that the onus was on Council to convince of the need for mandatory controls in this case and highlighted that the word ‘mandatory’ does not appear in either *Plan Melbourne* or the SSSP.

Whilst Mr Montebello was critical of the fact that Mr Biacsi had not undertaken a detailed assessment of the criteria outlined in PPN59 or PPN60, Mr Biacsi advised that he had appropriately considered the requirements of both practice notes and on the basis of that review did not believe mandatory controls were warranted.

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In addressing the mandatory versus discretionary issues, Mr Cicero also made reference to the fact that the SSSP does not make reference to mandatory heights and took the Panel to a number of paragraphs in the SSSP which referred to the document providing 'guidance'.

Mr Cicero also addressed the matter of 'exceptional circumstances' and submitted that *"neither the site nor indeed the immediate locality has any of the characteristics identified in those exceptional circumstances to warrant the application of mandatory heights"*.

Mr Cicero provided multiple examples of Amendments where previous Planning Panels had not supported mandatory provisions in activity centres before concluding that:

In summary, it is submitted that the Panel needs to be satisfied that "rigorous strategic justification" has been provided to it by Council to support the use of mandatory height as proposed. Viewed objectively, it is submitted that such justification has not been provided.

Ms Lyons, on behalf of Riverlee Management Pty Ltd, also submitted that mandatory heights were not warranted in the case of the current amendment and that in the context of PPN59 and PPN60, *"there is no planning merit to impose mandatory controls in this instance"*.

4.3 Discussion

The Panel is aware of the many previous Panel reports that have been written which have addressed the issue of mandatory versus discretionary planning controls. The Panel was also, helpfully, directed by both Council and the proponent to a range of such reports which addressed these issues, including Boroondara C138 and C139; Bayside C113, C114 and C115; Moreland C134; and Port Phillip C107.

In addition, the Panel was also informed by the discussion of this issue in relation to Boroondara C108; Bayside C100, C101, C102 and C103; as well as Stonnington C172. In referring to these Panel Reports, the Panel acknowledges that it is aware of others where mandatory height controls are successfully argued for. It further points out that it is aware that every circumstance is slightly different and previous reports can at best be a guide.

The starting point in these previous reports, and indeed the starting point for this Panel, is the acknowledgement that mandatory maximum building heights are the exception in Victoria as the Victoria Planning Provisions (VPP) were established as a performance-based system.

Mr Montebello was of the view that the approach to mandatory controls being the 'exception' has changed in recent years and that the relevant Practice Notes are out of date. Whilst this may be the case, and there may be more examples of mandatory controls being implemented now than, say, 10 years ago, the Panel is required to consider matters in the context of current Practice Notes, policy and guidance material.

In this regard, the clear direction of PPN59 remains, noting that the introduction to PPN59 states the following:

Mandatory provisions in the VPP are the exception. The VPP process is primarily based on the principle that there should be discretion for most developments and that applications are to be tested against objectives and

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performance measures rather than merely prescriptive mandatory requirements.

In considering whether mandatory controls are appropriate in the context of the subject site and Amendment C185, the Panel has also stepped through the criteria outlined in PPN59, as also undertaken in some detail by Mr Montebello, and has also considered the directions of PPN60. The Panel's consideration of the PPN59 criteria is outlined in Table 3 below, and a discussion of PPN60 then follows.

Table 3 Panel assessment of the criteria in Planning Practice Note 59

Criteria	Panel Assessment
Is the mandatory provision strategically supported?	The Panel is not convinced that the mandatory provisions are strategically supported. Whilst the Panel acknowledges that the SSSP has been presented as the key strategic document supporting the Amendment, the Panel has noted in section 6.5 that the SSSP can only be afforded limited weight, and therefore is reluctant to rely solely on the SSSP as offering strategic support for the amendment and, indeed, mandatory provisions. Whilst there is also clear strategic support for the amendment at a State and Local Planning Policy level, the support is of a more 'general' nature in terms of maximising development on a 'transit rich' site – not for the proposed mandatory height and set back controls.
Is the mandatory provision appropriate to the majority of proposals?	<p>The Panel acknowledges Mr Montebello's comments that this criterion appears to be more focussed on an area based control. Nonetheless, the Panel still believes that this criterion can also be applied to a site specific situation as is currently before the Panel.</p> <p>The Panel is of the view that the development proposed by the planning permit accompanying Amendment C185 will result in an appropriate height and built form from an urban design perspective – and this is discussed further at section 6.2 of this Report. However, the Panel is not convinced that the proposal before it is the <u>only</u> design solution that will represent an appropriate built form outcome - there remains the possibility that a proposal with a different built form might also be acceptable. Thus there are other possible outcomes that could also be appropriate for the site, that may not be possible if mandatory controls are implemented.</p>

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Criteria	Panel Assessment
Does the mandatory provision provide for the preferred outcome?	<p>The Panel acknowledges Mr Montebello's submission that, from Council's perspective, the mandatory control clearly will ensure that there is no opportunity for the proponent to lodge an application seeking greater height on the site, thus providing greater certainty for the community. The Panel also agrees with Mr Montebello that there is yet to be real evidence of development exceeding proposed controls in the immediate surround of the site and his reasons as to why this is the case.</p> <p>Nonetheless, the Panel is not convinced that there will, necessarily, be an 'adverse outcome' if mandatory provisions are not imposed, given the locational attributes of the site and the strong policy support for development of a site of this nature.</p>
Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?	<p>As noted above, the Panel is of the view that the current proposal before it does represent an acceptable outcome for the site that meets the objectives of DDO14. However, the Panel is also of the view that a proposal that does not accord with the mandatory provisions proposed, could also be acceptable and could also meet the design objectives of DDO14.</p>
Will the mandatory provision reduce administrative costs?	<p>The Panel accepts that the application of mandatory controls could result in a reduction of costs, if a new application is lodged for the site and if that application seeks to increase the heights or change the setbacks beyond those contemplated by the SSSP and subsequently could result in a lengthy VCAT case.</p> <p>However, the Panel also notes that there are a number of 'coulds' and 'ifs' in that consideration and so whether there would in fact be a reduction of costs is not something that can be clearly established at this point in time.</p>

In relation to PPN60 and the mandatory versus discretionary debate, the Practice Note states that height and set back controls in activity centre must be based on strategic research and comprehensive built form analysis as well as being consistent with State policy.

Whilst Mr Montebello was of the view that the SSSP meets this first requirement, the Panel again notes that the SSSP cannot be given significant weight for the reasons previously outlined.

The Practice Note then goes on to state that mandatory height and set back controls will only be considered in 'exceptional circumstances', and that exceptional circumstances may be identified for individual locations or specific and confined precincts and might include:

- sensitive coastal environments
- significant landscape precincts
- significant heritage places

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- sites of State significance
- helicopter and aeroplane flight paths.

The Panel is of the view that none of these 'exceptional' circumstances apply in this instance.

The Panel considers the site to be an exceptional location for an increased density of development, given its abuttal to Swan and Burnley streets, its abuttal to the Burnley Railway Station and its limited sensitive interfaces. However, it does not agree with Mr Montebello that the potential shadowing impacts to the Burnley Railway Station or the historic character of the streetscape along the north side of Burnley Street satisfy the intent of the Practice Note.

Further, the Panel does not believe that the site specific nature of the control, or the role the site has to play in the implementation of the recommendations of the SSSP, constitutes the exceptional circumstances contemplated by PPN60.

The Panel acknowledges the concerns of Mr Montebello in relation to the impact that greater height on the site could have on the broader application of the SSSP. However, in relation to this issue, the Panel again notes that the SSSP is yet to go through a robust planning process and thus the recommendations of the SSSP and, indeed, how they might translate into planning controls, have not yet been tested. Therefore, to suggest that mandatory controls are required in this instance to protect the recommendations of an as yet untested document is not something the Panel can support. Further the Panel does not accept that the application of discretionary height controls will necessarily result in the beginning of the 'undoing' of the SSSP as contended by Mr Montebello.

In this regard the Panel notes the comments made in relation to discretionary controls by the Panel for Amendment C108 to the Boroondara Planning Scheme, stating (at page 53):

On one hand, the Panel agrees with the view that discretionary controls enable greater flexibility in developing site-responsive designs that are able to balance the range of objectives within the planning schemes. Practice Notes 59 and 60 identify a clear preference for discretionary controls, with limited exceptions based on strong strategic grounds. This predisposition in favour of performance based, discretionary provisions is on the basis that discretion does not mean that a departure from the nominated heights or setbacks should, or will, be supported – rather, there should be a clear onus on the designer to demonstrate that departures from a nominated discretionary building envelope will produce a better outcome for the developer, future occupants and the community.

Keeping the above in mind, the Panel now turns to the comments made by Mr Montebello and Professor McGauran in relation to the exhibited DDO schedule and their stated view that it was written in such a way because it included mandatory controls, not discretionary.

The Panel has reviewed DDO14 in some detail and does not believe that, as a result of the provisions in the schedule becoming discretionary, DDO14 needs to be completely rewritten, including with reduced heights as suggested by Professor McGauran.

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However, the Panel does believe that DDO14 needs to be amended to specifically address the circumstances in which it might be acceptable for a proposal to vary the nominated discretionary height limit or specified setbacks.

In relation to this issue, the Panel notes the comments of Mr Biacsi who, under cross examination by Mr Montebello, stated that where there are discretionary height controls, to exceed the controls a proponent must be able to, first and foremost, demonstrate how the objectives of the relevant control are met.

The Panel agrees with Mr Biacsi in this regard and believes that the first 'test' as to whether a proposal that exceeds the discretionary controls is appropriate should be, in the case of the current matter, the objectives of DDO14.

If the objectives are able to be met, then the Panel is of the view that the second 'test' should be whether the proposal provides an exemplary response to the site and its context, including other relevant policy in the planning scheme.

This approach to discretionary controls and identifying the circumstances in which exceeding them may be warranted is well documented in the range of previous Panel reports discussed above.

The Panel believes that the approach taken in these various instances is sound and is appropriate in the case of the current proposal where the Panel does not support mandatory provisions. However, the Panel believes that it should remain clear in DDO14 that exceeding the maximum heights and setbacks should only occur in exceptional circumstances.

In this regard the Panel is of the view that the description of the heights and setbacks should be retained as maximum and minimum respectively (as relevant) in DDO14, rather than preferred. This will reinforce that the exercise of discretion to allow parts of a development to exceed those controls requires significant justification.

DDO14 should then have an additional clause added which identifies, where planning permit applications exceed the maximum height specified or do not meet the setbacks specified, that the onus is on the applicant to demonstrate, to the satisfaction of the responsible authority:

- that the built form outcome as a result of the proposed variations satisfies the Design Objectives of the Schedule
- that the proposal will achieve:
 - an exemplary built form outcome
 - an exemplary public realm outcome
 - innovative environmental design
 - minimal additional overshadowing (beyond that which would be generated by a proposal that complies with the specified height and setback requirements) of the public realm including the adjoining streets, the Burnley Railway Station, public places and the residential properties along Madden Grove
 - minimal adverse amenity impacts to adjoining properties (beyond that which would be generated by a proposal that complies with the specified height and setback requirements).

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The Panel notes that in reviewing the DDO14 in the context of the above matters, it is of the view that in its current form (subject to the changes recommended above) the Schedule offers appropriate guidance for the development of the site, should the current development proposal before the Panel not proceed.

The only area in which the Panel feels greater guidance could be provided in the Schedule is in relation to overshadowing. In this regard the Panel notes that whilst the need to '*minimise overshadowing of adjoining streets, the public realm and existing residential areas*' is identified at Clause 2, it is of the view that the need to ensure minimal impacts from overshadowing should also be addressed as part of the design objectives. This would then also ensure that overshadowing impacts are considered as part of the first 'test' for proposals seeking to exceed the mandatory heights or minimum setbacks.

Therefore, the Panel suggest that an additional Design Objective could be added to DDO14 which states:

To ensure that new development does not result in unreasonable overshadowing of the public realm including the adjoining streets, the Burnley Railway Station or neighbouring residential areas.

The recommended changes to DDO14 are as set out discussion above and as included in the Panel recommended version of DDO14 which is at Appendix D.

Finally, the Panel observes that the setbacks to the Swan Street frontage of the upper levels of the proposed building are less than the proposed mandatory minimum setback at some points along the frontage. If Council does not accept the Panel's recommendation with respect to the use of discretionary controls, then it would appear to the Panel that the proposal is in part non-compliant with the proposed mandatory setback control, a point observed in the Council officer report to Council entitled *Statutory Planning Assessment Report*.

4.4 Conclusions

The Panel concludes:

- that the criteria of PPN59 and PPN60 in relation to the use of mandatory provisions are not met in the case of proposed amendment and thus mandatory height and setback controls are not supported
- that DDO14 needs to be revised to remove reference to mandatory heights and setbacks and to replace them with discretionary heights and setbacks, with the height control expressed in metres
- that DDO14 needs to be revised to include a new clause which specifically addresses the exceptional circumstances in which it might be appropriate to exceed the preferred controls, as outlined in Section 4.3 above
- that an additional Design Objective should be added to DDO14 to address the issue of overshadowing of the public realm and neighbouring residential properties.

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4.5 Recommendation

The Panel makes the following recommendation:

2. **Amend the Design and Development Overlay Schedule 14 as set out in the Panel recommended version at Appendix D.**

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5 Provision of affordable housing

5.1 The issue

Council proposes that a permit condition that requires 5% of the dwellings be provided as affordable housing to be managed by a state accredited housing association be included. The issue is whether this is an acceptable requirement in the context of state and local policy and responsibility for the provision of affordable housing. Further in authorising the Amendment the Minister's delegate asked Council to consider the workability and wording of the exhibited planning permit condition 23.

5.2 Evidence and submissions

The Panel in its Directions asked the Council to define the term 'affordable housing'. Mr Montebello submitted:

The condition in the draft Planning Permit does not try and define what affordable housing is. In this regard it may include social housing which by definition must also be affordable.

Mr Cicero did not address this definitional issue.

In terms of policy support for the provision of affordable housing, Mr Montebello submitted that:

At the highest level, clause 16 of the SPPF provides as one of its three goals for Housing policy that:

Planning for housing should include providing land for affordable housing.

Mr Montebello also identified those aspects of *Plan Melbourne* which support the provision of affordable housing. These include Directions 2.3 and 2.4 which facilitate the supply of social and affordable housing. He quoted from the chapter on housing choice and affordability which states:

Housing affordability varies significantly across Melbourne and growth in house prices has outpaced growth in incomes. Our plan is to encourage greater diversity in housing types and access to more affordable housing options.

In its part A submission, Council identified the following aspects of its Municipal Strategic Statement (MSS) and local policy which provide policy support for its role in the provision of affordable housing:

Clause 21.04-1 (Accommodation and housing) recognises that Yarra is experiencing consistent residential growth and that Yarra will continue to accommodate its share of the housing growth of the inner Melbourne Metropolitan region. It also seeks to retain a diverse population and household structure by supporting the provision of affordable housing for people of all abilities, particularly in larger residential developments and on strategic redevelopment sites.

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Clause 21.05-2 (Urban design) seeks to reinforce the existing urban framework of Yarra and retain Yarra's identity as a low-rise urban form with pockets of higher development. It also provides that development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:

- ...*
- provision of affordable housing;*

Council submitted in its part A submission that the requirement for the provision of affordable housing is consistent with these local policies.

In relying on the evidence of Mr Biacsi, Mr Cicero submitted that including a requirement for affordable housing as a condition of planning approval is:

...inherently flawed unless the legislative framework exists for those partnerships to be established, funding streams for their on-going survival are secured and the pathway to implementation is transparent, equitable and of substance.

Mr Cicero did not submit on the policy support which Mr Montebello claimed for the requirement for the provision of affordable housing other than to say:

There is obviously much to be said about a coordinated approach to the provision of affordable housing so that it is consistently and transparently applied as part of the condition of a planning approval. There is no such consistency or transparency in the Yarra Planning Scheme, sufficient to provide a proper basis for the inclusion of such a condition.

At a policy level Mr Biacsi stated that affordable and social housing is an issue that requires state government leadership and that a requirement for it is recognised through the State planning policies but that the State government has not acted on implementing this policy in any integrated way. He went on to state that:

Left to individual Councils to address only results in indiscriminate and unfair decision-making such as the case here, where there is no clear basis for requiring affordable housing to be provided by procuring a 5% gift of total dwellings to be made to an accredited housing association.

Mr Montebello submitted that gifting of the dwellings was not Council's intention.

Mr Biacsi further points out that the provision of social housing is overseen by the State under the auspices of the *Housing Act, 1983*.

The issue of the wording of a condition on the planning permit to underpin the provision of affordable housing is addressed in section 7.3. The Panel notes here that while Mr Cicero confirmed in his submission that the proponent remained opposed to the requirement to provide affordable housing he submitted that:

...Bamfa would agree to the inclusion of a condition along the following (not included here), subject to height and setback being discretionary.

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Mr Montebello took the Panel to a number of other Amendments in both Yarra and Maribyrnong where a 5 % affordable housing requirement was either negotiated with the proponent or imposed through either conditions or a section 173 agreement. The Panel notes that in none of these Amendments that were considered by a Panel was the proposal apparently contentious nor was it commented on in any detail in the relevant Panel report. Two of the Amendments cited by Mr Montebello did not go before a Panel so it can only be assumed that the provision of affordable housing as part of the development was not contentious in those cases.

5.3 Discussion

The key issues for the Panel in its consideration of this issue are whether there is strong policy support for the position adopted by Council and for a local government role in the planning for the provision of affordable housing.

In its Directions, the Panel asked Council to define affordable housing. Mr Montebello submitted that the draft planning permit does not try to distinguish between affordable housing and social housing. The Panel understands that there are no generally agreed definitions of these terms in policy but that different users define these terms differently. Council uses the terms interchangeably. This may be regarded as frustrating where the Panel's role is to ensure that there is policy support for a proposal and that policy is being appropriately implemented. However, the Panel accepts Mr Montebello's submission that there is no need to get into a "*definitional stoush*". It is not the Panel's role to try and define these terms. Indeed, the Panel does not have the expertise to tackle this question. This should be done outside the context of this proposal. The Panel accepts the looseness of the interpretation of the term used by Council but notes that this is an aspect of policy which if clarified will make the consideration of this issue in the future, more clear cut. The definition of affordable housing is in effect being passed off onto the 'accredited housing association' which will be the implementer.

There seems little dispute about State policy supporting the provision of affordable housing. It is also clear to the Panel that there is policy support by Yarra Council for such provision. What is in dispute, however, is the role of local government in implementing this aspect of State policy. The Panel accepts Mr Biacsi's contention that there is no clear guidance from the State on how such a policy should be implemented in an integrated and coordinated way. This is unfortunate, and the role of local government in implementing such a policy is not spelt out. The Panel accepts that it would be helpful in matters such as this if the policy had a better established implementation framework. The Panel further accepts that this can lead to an inconsistent approach and uncertainty with respect to expectations at the local level.

However, the Panel does not accept that because the provision of affordable housing is supported in the SPPF that it is only a state responsibility. There are plenty of examples where Councils, and proponents including in this instance, rely on aspects of the SPPF to support an Amendment or proposal being considered at the local level.

From the Panel's perspective, the proposal for 5 percent affordable housing has clear local policy support and apparently, and somewhat surprising uncontentious precedents in other recent developments in Yarra. For this reason, the Panel accepts that the proposed

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requirement for the provision of 5 percent affordable housing through an accredited housing association is acceptable, subject to the circumstances in which this is to occur being more clearly defined in the relevant planning permit condition.

Having said this, the Panel does not support the gifting of such housing and accepts Mr Montebello's assurance that this is not intended.

The issue of the wording of an appropriate permit condition is addressed in section 7.3.

5.4 Conclusion

The Panel concludes that the proposal to provide 5 percent of the total housing as affordable housing has appropriate policy support and as such is supported by the Panel, subject to the circumstances in which this is to occur being more clearly defined in the relevant permit condition.

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6 Other issues

6.1 The issues

In this chapter a number of other issues raised by submitters are addressed. These are:

- Whether the urban design of the development and the public realm is appropriate?
- Whether the overall scale and height of the proposed development is appropriate and whether it will have an unacceptable visual impact on the surrounding area?
- Whether the shadows which the proposed development will cast over the area to the south of the development and the platforms of the Burnley Railway Station, in particular at the equinox, are acceptable?
- Whether the removal of the five existing older residential dwellings located in Swan Street is acceptable?
- Whether it is appropriate to include the Swan Street Structure Plan as a Reference Document to DDO14?
- The nature and significance of the proponent's contributions to improvements in the public realm.

6.2 Urban design and the public realm

(i) Evidence and submissions

There were a number of submissions from local residents, including Mr Edward Mennen, Mr Stephen Jervis, Ms Brooke Boger and Mr Alex Miles, that raised concerns in relation to urban design issues and how the building would 'fit' within the Swan Street streetscape and surrounding area. These submissions often related specifically to the height of the proposal and this issue is dealt with in the following section.

There were also a number of submitters (many of them traders) that supported the proposed development, with a number identifying the redevelopment of the site as proposed as providing a catalyst for improvements along Swan Street.

Mr Montebello submitted that the character of the area was assessed as part of the Statutory Planning Assessment Report undertaken by Council and that this report concluded that the proposed built form and urban design would be appropriate for the site and surrounding area, acknowledging that this site would be a catalyst for change in terms of establishing a new built form character along this part of Swan Street.

In terms of urban design issues, Mr Montebello also relied on the evidence of Professor McGauran. Professor McGauran made a number of suggestions in relation to urban design matters and improvements that could be made to the design of the building and its external experience, the majority of which were addressed as part of the draft conditions discussed at the Hearing and in the main accepted by Council and the proponent.

In discussing the built form and design resolution of the proposal, Professor McGauran noted (at paragraph 114):

... The final scale and form arrived at sought to acknowledge the layers of development and changing form of the city enunciated in State and Local

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policy, with a podium form talking to the streetscapes that once predominated as 2 and 3 level, the emerging new urban consolidation and intensification along transit corridors in the municipality.

Professor McGauran also highlighted some of the key urban design benefits of the proposal, including the improved public realm outcome for access to and from Burnley Railway Station and the streetscape and landscape improvements proposed along both street frontages and facing the station.

Mr Cicero submitted to the Panel that what was proposed would result in a high quality development that will also result in a significant public realm investment. This was supported by the expert evidence of Mr Biacsi who stated (at paragraphs 94 and 95):

It is my view that the proposed building responds appropriately and positively to the physical and strategic context of the Amendment land, bearing in mind the designation of the site by the Council as a 'strategic development site' and current policies in the Planning Scheme which, in terms of Yarra's built form character, support taller scale development and a contrast in scale with surrounding lower rise form.

In terms of architectural and design merit, I consider that the design response is one that is to be commended in terms of the overall design approach and architectural quality particularly having regard to the principles of Clause 15 of the Planning Scheme and the DGHDRD³.

Mr Biacsi referred to the height and spacing of the development, and that it allowed for equitable development of the property to the east. He noted the activation the proposal would provide to the streetscape through the retail presence and its integration with the public realm works along both Swan and Burnley Streets.

(ii) Discussion

The Panel agrees with the views of Professor McGauran and Mr Biacsi and is of the view that the proposed development will result in a well-considered, high quality, built form on a site that represents an ideal opportunity for development of a higher density and scale than currently exists in Swan Street.

Whilst the height and scale of the development is discussed in more detail below, the Panel is of the view that the proposed architectural treatment of the podium, the separation of the two buildings, the setbacks to the adjoining property to the east, and the architectural quality of the proposal will all result in an appropriate urban design outcome that will ensure this strategic redevelopment site sets a positive precedent for other development along Swan Street.

The Panel also believes that the public realm benefits are significant and will result in what is currently an unwelcoming environment adjacent to Burnley Railway Station becoming an activated space with significant informal surveillance enhancing the safety and security of the station environs and the neighbouring tram and bus routes.

³ Design Guidelines for Higher Density Residential Development

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(iii) Conclusions

The Panel concludes:

- the proposal will result in a high quality and attractive built form that represents an appropriate urban design outcome for both the site itself and the surrounding Swan Street environs
- the proposed public realm works are significant and will greatly enhance the public transport experience for train, tram and bus commuters in this location.

6.3 Height and scale

(i) Evidence and submissions

There were a number of submissions, including from Mr Ben Dingle, Mr Marc Doherty, Ms Maree Nihill, Mr Alex Miles, Ms Michelle Pollock, Mr Stephen Jervis and Ms Brooke Boger that referred specifically to the overall height of the development with many referring to the fact that whilst they did not object to the development 'per se', they objected to the height. The submissions concerned about height suggested various, alternative built form outcomes, ranging from simply stating that the maximum height of 12 storeys should be reduced, to suggesting that heights of anywhere between six and 10 storeys would be more appropriate for the site.

Mr Montebello referred the Panel to the SSSP and noted that this site has been identified as being appropriate for the tallest built form within its designated sub-precinct of the SSSP.

Professor McGauran also discussed the issue of building height noting that the proposed 10 to 12 storeys represents a 'medium rise' development of a scale that is reasonable in the context of the urban fabric of Swan and Burnley streets and the 'transit rich' location of the site. He noted that the nature of the site supports this level of development and that he would have an expectation that development to the east would also be of a medium rise scale extending up to the alignment of Park Grove to the north.

Mr Biacsi also addressed the issue of the height and scale of the development, stating at paragraph 99 of his evidence:

- *Built form on the Amendment land is to be guided by a proposed DDO14 which is to allow a maximum building height of 42m, with a 3 storey street wall and generous setbacks to upper levels.*
- *The built form response is also to be guided by the location of the Amendment land in a MAC, adjacent to the Burnley Railway Station and its designation as a strategic redevelopment site.*
- *Whilst having a level of prominence, the proposed buildings at 10 and 12 storeys will not be out of context particularly having regard to the physical characteristics of the surrounding area (existing and emerging) and where the Planning Scheme is supportive of substantial change.*

(ii) Discussion

The proposed maximum height of the proposal was not something that was debated to any great extent at the Hearing – primarily because the submitters at the Hearing, and the

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experts from both Council and the Proponent, generally appeared to agree that the height and scale of the proposal was broadly appropriate (notwithstanding the debate around the discretionary and mandatory controls and the potential impacts additional height would have).

The Panel understands the concerns of the residents about the potential change to the scale and built form of Swan Street as a result of the proposal and the fact that this new building will be significantly higher than existing buildings in the area.

However, the Panel highlights the change that is envisaged for the broader area, beyond the subject site, and the important role that this site will have to play in rejuvenating this end of Swan Street. Thus, whilst initially the development of the site may result in it having some 'level of prominence' as put by Mr Biacsi, the Panel is of the view that this prominence will lessen over time as surrounding sites are developed.

The Panel is also of the view that, as discussed in earlier sections of this Report, the locational attributes of this site make it entirely appropriate for a medium rise building that capitalises on its proximity to public transport and its limited off site amenity impacts. It is exactly the sort of site that State and local planning policies, as well as *Plan Melbourne*, envisage should be developed for higher density development.

In relation to whether the 10 to 12 storeys is appropriate, the Panel accepts the views of Professor McGauran and Mr Biacsi that the height and scale of development that is proposed is acceptable and indeed is 'about right' for this site.

The Panel does not believe the proposed development will result in an unreasonable visual impact to the residential area to the south, particularly given the separation of that area from the subject site by the rail line, the Burnley Railway Station and Madden Grove. The Panel is also of the view that there will be no unreasonable visual impact to the residential area to the north (located behind the C1Z on the north side of Swan Street), once again given the separation of this area from the subject site and taking into account the likely future development and rejuvenation that is envisaged for this part of Swan Street.

In making this observation the Panel notes that it has taken into consideration the other key potential 'off-site' impact of overshadowing to the Burnley Railway Station into consideration and this is discussed further below.

(iii) Conclusion

The Panel concludes:

- the proposed height and scale of the development is appropriate, particularly in the context of the locational attributes of the site, and will not result in unreasonable visual impacts to nearby residential areas.

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6.4 Overshadowing

(i) Submissions

The issue of the overshadowing of the area to the south of the development and the platforms of the Burnley Railway Station, was raised by Mr Peter Ford. In raising this as an issue, Mr Ford also referred to a previous VCAT decision *ACCC Pty Ltd t/as AWC Property v Yarra CC (includes Summary) (Red Dot) [2012] VCAT 1180*, which related to a multi storey proposal on the north side of Stewart Street in Richmond, to the north of the Richmond Railway Station elevated platforms. Mr Ford's submission suggested that this decision set a precedent for greater consideration to be given to the impact of overshadowing of railway stations as a result of new development.

Mr Montebello advised that whilst the VCAT case referred to by objectors does discuss overshadowing of adjoining residential properties, the overshadowing of Richmond Railway Station was not raised as an issue at the proceeding and is not mentioned in the decision.

Mr Montebello went on to refer to a VCAT decision (*CBUS Property West Melbourne Pty Ltd v Melbourne CC [2015] VCAT 1653*), that does refer to overshadowing of the public realm, where overshadowing of the North Melbourne Railway Station was a matter that was considered.

In the case of that decision, VCAT made reference to a 'hierarchy' of public spaces and noted that recreational public open space would sit at the top and is the most important in terms of protecting from unreasonable overshadowing.

In relation to the subject site in particular, Mr Montebello submitted that based on the submitted shadow drawings the extent of shadowing over the station platforms would not be unreasonable, and would comply with the building design objectives of DDO14.

In his evidence, Professor McGauran advised that he was satisfied that a significant extent of the station will remain in sun and noted at paragraph 80 that:

The shadow diagrams would indicate that at the eastern end a 60% reduction in height would be required to prevent overshadowing of the central platform area from 10 levels down to approximately 4. In my view the outcome in this instance needs to be one of balance and I am of the view that on balance commuters are being delivered an enhanced transit precinct and a development that has seriously addressed in both a land use and interface response the necessary balance between the stated State objectives of intensification and ongoing amenity for active transport.

In his evidence, Mr Biacsi highlighted the fact that the shadows from the proposal (at the September Equinox), would not affect residentially zoned land and that the level of overshadowing as a result of the proposal 'is acceptable'.

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(ii) Discussion

The Panel acknowledges the concerns of Mr Ford about the overshadowing of parts of the Burnley Railway Station as a result of the proposal.

However, the Panel agrees with the submissions and evidence put to it at the Hearing in terms of the need for overshadowing impacts to be balanced against other impacts of the proposal including the significant improvements that will occur to the public realm as well as the various other surveillance and safety outcomes that the proposal will generate.

The Panel is of the view that the impacts from the overshadowing will be acceptable, in particular noting that the shadows do not affect residential properties and that it is the northern platform that is affected by the shadows, with minimal impacts to the southern platform.

The Panel considers such impacts are not unreasonable, particularly when balanced against the improved public transport experience that the proposal will provide for commuters.

(iii) Conclusion

The Panel concludes:

- the proposed development will not result in unacceptable impacts to Burnley Railway Station as a result of overshadowing.

6.5 Heritage

(i) Evidence and submissions

A number of submitters, including Ms Anita Mead, Mr Mark Devlin, Ms Emily Doherty, Mr Alex Miles, Ms Sheree Goodall, Ms Georgina Kyriakopoulos, Mr Edward Mennen and Ms Helen Karpik, raised concerns about the demolition of the five semi-detached cottages on the site on the basis that the dwellings are of heritage significance and therefore should be retained.

Mr Montebello referred to the advice provided to Council by Mr David Helms, who undertook a heritage assessment of the potential heritage significance of the dwellings at 462-470 Swan Street on 22 August 2016.

The advice of Mr Helms was as follows (refer to paragraph 25 of Document 5):

The houses are directly opposite the shops at nos. 405 to 419 Swan Street, which date from the late Victorian to interwar periods, and form part of the Burnley Street Precinct, which is proposed for inclusion in the HO by Amendment C183. The potential inclusion of these houses within that precinct was considered as part of the assessment that I carried out for the City of Yarra Heritage Gap Study Review of Central Richmond (2014); however, they were excluded for the following reasons:

- *Historically, the south side of Swan Street east of Burnley Street did not develop as part of the commercial centre like the north side, and the south side west of Burnley Street. The site of the houses at nos. 462-470 was,*

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until the early twentieth century, the site of the first St Bartholomew's Anglican Church before it was relocated to 290-300 Burnley Street;

- *The houses did not form part of an otherwise intact streetscape; and*
- *This type of housing is already well represented in the heritage overlay, as noted above.*

Mr Montebello highlighted that ultimately Mr Helms recommended that the dwellings do not warrant further assessment.

Professor McGauran, in his expert statement noted that he relied on the expert opinion of two independent heritage studies that have determined the existing cottages are not of the necessary level of significance to warrant protection.

(ii) Discussion

The Panel accepts the findings of Mr Helms and thus does not believe that the existing cottages are of such significance that their retention is warranted.

(iii) Conclusion

The Panel concludes:

- that the removal of the five existing older dwellings on the Swan Street frontage represents an acceptable planning outcome.

6.6 Inclusion of the Swan Street Structure Plan as a Reference Document

(i) Evidence and submissions

The issue was raised in Mr Biacsi's statement of evidence about the inclusion of the SSSP as a Reference Document in DDO14. Mr Biacsi made the following observation (refer paragraph 59):

Although the Structure Plan has been adopted by Council, to date it has not formed the basis of any proposed Planning Scheme Amendment that sought to implement the vision, objectives and strategies of the Structure Plan in the Planning Scheme. In my opinion, it should not be referenced in the Planning Scheme as part of this Amendment as the Amendment, whilst aligned with the Structure Plan, is not dependent upon it for support.

Mr Cicero agreed with the comments of Mr Biacsi and also highlighted that even absent of the SSSP there is significant strategic policy in the Planning Scheme and in *Plan Melbourne* to support the rezoning of the site.

Mr Montebello addressed this issue in his closing submission, stating (at paragraphs 8 to 9 of Document 23) the following:

We also submit that if the DDO gets up, then it must make reference to the SSSP because that document was the very specific basis for the DDO.

The DDO only applies to the one site. Therefore, the identification of the reference document will only be relevant to this one site.

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(ii) Discussion

As discussed in earlier sections of this Report, the Panel is of the view that only limited weight can be given to the SSSP, given that it has not been through a transparent and publicly tested amendment process.

Keeping this in mind, the Panel agrees with Mr Biacsi and Mr Cicero that it is not appropriate to include the SSSP as a Reference Document in DDO14.

The Panel acknowledges Mr Montebello's comments that the reference will only be of relevance to one site, however the fact remains that the SSSP has not been formally exhibited and has not been tested via a transparent planning process.

In making this observation the Panel also refers to Planning Practice Note 13, Incorporated and Reference Documents and notes that, in relation to Reference Documents, and when it is appropriate to include a Reference Document in the Planning Scheme, PPN13 makes the observation that:

There is no need to refer to a document if the substantive elements of the document have been included in the scheme in either the MSS, a local planning policy or a schedule, unless it contains additional useful information.

The Panel is of the view that the substantive elements of the SSSP, insofar as it relates to the subject site and built form outcomes in particular, have been included in DDO14 and thus, regardless of the comments around transparency of process outlined above, its inclusion as a Reference Document is not necessary to ensure an appropriate built form outcome for the site.

(iii) Conclusion

The Panel concludes:

- That the inclusion of the SSSP as Reference Document in DDO14 should be deleted.

6.7 Contributions to public realm improvements

(i) Evidence and submissions

Mr Cicero submitted that the proponent is contributing improvements to the public realm which he said are valued at \$3.31 million, including the value of land. These include accessibility improvement to Burnley Railway Station, and the provision of streetscape improvements. Mr Cicero called expert evidence from Dr Darron Cook to show that the community benefits from that investment in the public realm far outweigh the value associated with for example delays to tram services in Swan Street. Dr Cook valued the time delays to the tram services at \$499,454 over 10 years using a 7 percent discount rate. The proponent will fund a DDA compliant ramp to access Burnley Station at a cost of \$317,000. Using a willingness to pay methodology derived from a UK study, he estimated the community benefit of the ramp at \$387,320 that is benefits exceed costs. In cross examination, Ms Hicks questioned Dr Cook on the applicability of the methodology used in the UK study. Mr Cicero submitted that the community benefits should be taken into account when assessing the significance of delays to tram services. Mr Montebello reminded the Panel that the existing ramp would need to be moved to accommodate

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aspects of the proposed development and Ms Hicks indicated that any new ramp provided would need to be DDA compliant.

(ii) Discussion

The Panel acknowledges the significant contribution that the proponent is making to public realm improvements. The Panel acknowledges Mr Montebello's point that some of these improvements would need to have been provided by the proponent as a result of the need to develop components of the proposed project. The Panel further acknowledges the questioning of the methodology used by Dr Cook to calculate the benefits of the DDA compliant access ramp and notes that such methodologies are usually based on a series of assumptions which if changed can significantly impact estimated outcomes. The Panel is in no position to make any definitive comment on the extent to which the public realm benefits might outweigh any costs imposed on the community through tram delays or other costs external to the site, save to say that the contribution by the proponent is significant and the costs imposed on the community are non-trivial.

The Panel is loath to comment on the importance of these benefits in offsetting costs associated with costs of delays to tram services as calculated by Dr Cook and highlighted by Mr Cicero as it is not privy to any discussions between Council and the proponent which may have led to negotiated outcomes resulting in at least some of these public realm improvements, but not necessarily as offsets for costs associated with tram delays.

(iii) Conclusions

The Panel concludes:

- the proponent is making a significant contribution to improvements in the public realm and that some of these would have been required as part of the development
- no clear case has been made that public realm improvements have been made as an offset to costs incurred by delays to tram services.

6.8 Noise

(i) Submissions

Ms Sheree Goodall submitted that the residents do not want excessive noise in the early morning, evenings and at weekends. Ms Goodall was not specific about what noise was of concern to her.

(ii) Discussion

The Panel acknowledges the concern about noise and notes that permit condition 8 requires that an acoustic report be prepared by the proponent before the use and development commences and it requires an assessment of possible noise sources including rail vibration. Further, the condition requires that recommendation to limit noise impacts must be implemented and complied with. Residents of the proposed development are more likely to be impacted by most if not all noise sources than residents in surrounding areas.

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(iii) Conclusion

The Panel concludes:

- adequate protection against the possible impact of noise is provided for planning permit conditions.

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7 Planning permit conditions

7.1 The issues

The Panel directed that the Council and the proponent should attempt to meet prior to the Hearing to attempt to resolve outstanding issues with respect to draft planning permit conditions and report any resolution reached at an appropriate point during the Hearing by way of a marked up copy of draft permit conditions.

During the course of the Hearing the various experts provided commentary and recommendations about a number of different conditions, as did the advocates for the Council and proponent.

Time was set aside during the Hearing to have a 'without prejudice' discussion about draft conditions. As a result of that discussion a revised set of conditions was prepared which was generally 'agreed' apart from some remaining points of difference between the proponent, Council and PTV.

The Panel notes that this section does not go through each 'round' of changes proposed to the exhibited conditions schedule but rather focusses on the final changes addressed in the 'without prejudice' discussion at the hearing and subsequently the conditions that remained in contention.

7.2 Evidence and submissions

As noted above, each of the advocates and experts giving evidence before the Panel included suggested changes to the exhibited planning permit conditions and in some instances suggested new conditions.

Mr Montebello provided a response to a number of matters raised by VicTrack in relation to particular conditions, as well as a response to some of the condition changes suggested by VicRoads. In addition, Mr Montebello provided a response to the Panel about the use of the proposed retail tenancies and the associated Condition 1(b). Further, Mr Montebello provided explanation as to reasoning behind the drafting of the affordable housing condition.

In Professor McGauran's evidence in chief he suggested a range of layout changes for the proposal which typically sought to improve the amenity of the apartments via improved access to daylight, and which were proposed to be implemented via additional conditions on the planning permit. Professor McGauran also made suggestions which sought to ensure the robustness of proposed building materials and the implementation of car share facilities and charging stations of electric cars.

Ms Dunstan made recommendations in relation to a range of traffic related matters including matters to be addressed in the Car Park Management Plan required via a condition of the planning permit, the need for electronic signage to be provided indicating the availability of car spaces in the car park, the Swan Street car spaces she believed should be removed and support for the restriction on the height of trucks accessing the loading dock via a Section 173 Agreement.

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Mr Cicero's key focus in relation to permit conditions related to the affordable housing condition. Mr Cicero also advised that in the main the suggestions made by Professor McGauran were acceptable to the proponent.

Mr Kiriakidis provided a specific response to the draft permit conditions at Section 9.1 of his evidence. His recommendations included discussion of the Swan Street car spaces to be removed as well as addressing other matters such as the PTV requirement for a bus stop beneath the Burnley Street underpass and the funding of the shared car space.

Mr Biaci provided comment on the conditions associated with the gymnasium use as well as commentary on the requirement for a streetscape Master Plan, the affordable housing condition and the public art condition.

Ms Hicks presented new conditions for the Panel's consideration, intended to replace those conditions included in PTV's letter dated 18 August 2016. The conditions included both conditions that were refined versions of previous conditions as well as new conditions relating to two 'options' associated with either a contribution to the construction of a new tram stop in Swan Street or a study to ascertain appropriate mitigation measures to address potential impacts to the public transport network as a result of the proposed development. In relation to the second option Ms Hicks referred the Panel to the Moonee Valley Racecourse Advisory Committee Report and the recommendation of that Panel in relation to the preparation of an Integrated Transport Plan.

VicRoads provided submissions in support of the conditions it had required to be included on the exhibited planning permit.

Armed with the various recommendations outlined above, and in consultation with Mr Cicero, Mr Montebello presented to the Panel a set of revised conditions that sought to do the following:

- include the various recommendations and proposed layout changes suggested by Professor McGauran and agreed by Council and the proponent
- include the agreed outcome on the location and number of car spaces to be removed along Swan Street
- include the agreed traffic related conditions including those PTV conditions that Council and the proponent were in agreement over
- reflect agreed minor changes to the wording to a number of conditions
- remove replication of requirements in conditions.

These revised conditions were further refined during the 'without prejudice' discussion, with input also provided from VicRoads and PTV.

The key area in terms of the conditions remaining in 'dispute' at the end of the discussion related to a number of the proposed PTV conditions.

In addition, whilst the wording of the condition in relation to affordable housing was agreed upon between Council and the proponent, as discussed in Chapter 5, Mr Cicero stressed that the proponent did not agree, in principle, to the provision of affordable housing.

The Panel will discuss each of these matters below.

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7.3 Discussion

(i) Affordable housing condition

The overriding issue of whether requiring affordable housing is appropriate or not, has been addressed in Chapter 5 of this Report.

In terms of the condition itself, and as expressed in the Ministerial Authorisation for the Amendment and in the Directions of the Panel, the Panel had concerns in relation to the wording of the exhibited condition and the risk of including such a condition with the potential for a 'State government accredited housing association' not being available/interested in being involved in the development of affordable housing on the site.

The Panel also had concerns about how 'affordable housing' was to be defined and how such 'provision' would occur. Was it intended that the housing would be purchased or gifted? And was does 'in association with' mean? These issues were discussed in Chapter 5.

In his submission, Mr Cicero put forward an alternative condition which sought to resolve some of these concerns. A further revised condition was subsequently put forward by Mr Montebello and after some further 'tweaking' was agreed to by Mr Cicero.

The revised condition reads as follows:

22. *Before the development is occupied, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 which requires that the owner must facilitate the provision of affordable housing by:*
 - a. *entering into an arrangement with a state government accredited housing association in respect of 5 percent of the total number of dwellings to be purchased or managed by that accredited housing associated as affordable housing within the meaning of that affordable housing agency's remit to the satisfaction of the responsible authority;*
or
 - b. *Making other arrangements for the provision of affordable housing in respect of the same number of dwellings to the satisfaction of the responsible authority.*
23. *The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority*

The Panel supports this revised condition.

(ii) Public Transport Victoria conditions

The majority of the conditions put by PTV to the Panel reflected conditions included on the exhibited planning permit. However, it was the conditions associated with the 'options' for mitigating works that were most contested.

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As discussed in section 3.2, the Panel was surprised by the position put by PTV. Whilst the Panel understands the concerns of PTV of the impacts of intensification of land use along public transport corridors, it does not believe that a seemingly 'ad hoc' approach taken by PTV in this instance is appropriate.

Accordingly, and as discussed at section 3.2, the Panel does not support the inclusion of the Condition 3 proposed by PTV in relation to either Option 1 or Option 2.

However, the Panel does support the inclusion of the remaining conditions, including the PTV Condition 2 relating to signal phasing and the incorporation of tram priority measures for the new traffic signals and Condition 9, requiring that prior to the occupation of development, works associated with the signalised access must be completed to the satisfaction of PTV. The Panel highlights these two conditions specifically as it seems that these conditions were inadvertently omitted from the 'final' version produced by Mr Montebello.

7.4 Conclusions

The Panel concludes:

- that it supports the revised affordable housing clause included in the revised draft planning permit prepared by Mr Montebello
- that it does not support either of the options put by PTV in relation to its Condition 3, but does support the inclusion of the other PTV conditions, including the PTV conditions 2 and 9
- the planning permit should be amended as per the tracked changes version included at Appendix C which incorporates both changes agreed between Council and the proponent and panel recommended changes.

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Appendix A Submitters to the Amendment

No.	Submitter
1	Nuchev Pty Ltd
2	Cyber It Solutions Pty Ltd
3	Riverlee Management Pty Ltd
4	Zagame Group Pty Ltd
5	Peter J Ford
6	Alamar AV Communications Pty Ltd
7	VicTrack
8	Anita Mead
9	Pure Projects Pty Ltd
10	Marc Doherty
11	Mark Devlin
12	Emily Doherty
13	TRP Sports
14	Helen Makrios
15	Adam Djmal
16	Paul Codespoti
17	Melinda Ackerman
18	Tom Tran
19	Maree Nihill
20	Alex Miles
21	Judith Drill
22	Michelle Pollock
23	VicRoads
24	Public Transport Victoria
25	Rania Baroud
26	Helen Karpik
27	Wilcon Projects on behalf of Bamfa Properties Pty Ltd
28	Georgina Kyriakopoulos
29	Iain Peters
30	Edward Mennen

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31	Dorman Investment Group Pty Ltd
32	Sheree Goodall
33	Stephen Jervis and Brooke Boger

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Appendix B Document list

No.	Date	Description	Tabled by
1	23/11/2016	Joint Statement from Traffic Conclave	Mr Montebello
2	23/11/2016	Elenberg Fraser Architects Advice	Mr Reade Dixon
3	23/11/2016	Architectural Plans	Mr Reade Dixon
4	23/11/2016	Extract from the Road Safety (Vehicles) Regulations 2009	Ms Dunstan
5	23/11/2016	Part B Submission from the City of Yarra	Mr Montebello
6	23/11/2016	Extract from <i>Plan Melbourne</i>	Mr Montebello
7	23/11/2016	Revised Shadow Drawings showing the impacts of an additional two storeys.	Mr Cicero
8	24/11/2016	Background Urban Design Analysis Report to the SSSP	Mr Montebello
9	24/11/2016	Replacement Page 46 from Mr Kiriakidis expert witness statement.	Mr Kiriakidis
10	24/11/2016	GTA correspondence dated 19/9/2016	Ms Hicks
11	24/11/2016	GTA Report <i>Transforming Tram Corridors</i>	Ms Hicks
12	24/11/2016	Curriculum Vitae of Darron Cook	Mr Cook
13	24/11/2016	Submission on behalf of the proponent	Mr Cicero
14	25/11/2016	Public Transport Guidelines for Land Use and Development	Ms Hicks
15	25/11/2016	Moonee Valley Racecourse Advisory Committee Report excerpt – Chapter 10	Ms Hicks
16	25/11/2016	Moonee Valley Planning Scheme Activity Centre Zone Schedule 1	Ms Hicks
17	25/11/2016	PTV Submission and attachments 1-5	Ms Hicks
18	25/11/2016	VicRoads Submission	Mr Rasulo
19	25/11/2016	VicRoads attachment	Mr Rasulo
20	25/11/2016	Revised Draft Permit Conditions	Mr Montebello
21	25/11/2016	Submission on behalf of Riverlee Management Pty Ltd	Ms Lyons
22	25/11/2016	Comments from Rob McGauran on the revised shadow drawings.	Mr Montebello
23	25/11/2016	Closing submission for Council	Mr Montebello

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Appendix C Panel recommended version of the planning permit

DRAFT PLANNING PERMIT

GRANTED UNDER SECTION 96I OF THE
PLANNING AND ENVIRONMENT ACT 1987

Permit No.:

Planning scheme: Yarra Planning Scheme

Responsible authority: Yarra City Council

ADDRESS OF THE LAND: 462-482 SWAN STREET, RICHMOND

THE PERMIT ALLOWS:

Use and development of land for a mixed use development comprising 2 buildings (part 3-10 storey and part 3-12 storey) dwellings, a supermarket and retail [floorspace](#), offices, a gymnasium (with swimming pool) (permit required for dwellings and restricted recreation facility only), a reduction [in](#) the car parking requirement, buildings and works including alterations to access to a Road Zone (Category 1).

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the use and development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans by Elenberg Fraser received by Council on 4 April 2016 but modified to show:
 - (a) The second floor amended as per the sketch plan provided on 13 April 2016;
 - (b) ~~All retail tenancies to be labelled as shop~~ Confirmation that retail tenancies (2-4) are not to be used for market, trade supplies, landscape gardening supplies, manufacturing sales, more vehicle, boat or caravan sales or primary produce sales;
 - (c) Relocation of the southern fire escape on the ground floor;
 - (d) The eighth floor roof top garden with a void area above on the ninth floor;

Date issued:

Date permit comes into operation: Signature for the responsible authority:

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

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- (e) The tenth floor roof top garden with a void area above the eleventh floor;
- (f) A schedule of all materials and finishes including
 - (i) colours,
 - (ii) samples,
 - (iii) timber batten fins as a "class 1 durable timber" with profiles and non-corrosive fixings,
 - (iv) the painted concrete replaced with a finish that is integrated with the material examples of the application of the proposed bronze glazing in other buildings and
 - (v) details of the vine cables and fixings and how they will be attached;
- (g) The west-facing apartment within the internal corners of the eastern tower numbered correctly and to have its balcony relocated to the south of its current location;
- (h) The balcony of apartment -05 between the fourth and eleventh floors be re-located to have a southern and eastern dual aspect;
- (i) The balcony of apartment -05 between the fourth and eleventh floors re-located to have a southern and western dual aspect;
- (j) All balconies of two-bedroom dwellings with at least 8sqm in area and 1.6m in width with all balconies of one-bedroom dwellings to have a balcony of at least 1.6m in width;
- (k) A minimum 3m³ of storage per dwelling;
- (l) Additional overlooking fins provided to apartments -01 and -16 of the eastern and western towers between the fourth and seventh floors to prevent internal views to the abutting habitable room;
- (m) Additional overlooking fins provided to apartments -01 and -14 of the western tower on the fourth and seventh floor to prevent views to the abutting habitable room;
- (n) Operable windows to the western end of the residential corridors except for the corridor on level 1;
- (o) The long term parking 'zones' be clearly labelled on the floor plans;
- (p) The dimensions of the individual lanes and pedestrian refuge of the vehicle access out onto Swan Street;
- (q) A swept path for space No. 25 on the Lower Basement floor plan;
- (r) The correct number of car spaces annotated on floor plans;
- (s) All dimensions of ramp widths and grades;
- (t) The grade of the pedestrian path leading to the lobby of the Level 2A car park confirmed and to be DDA compliant;
- (u) Dimensions of clearances of spaces from abutting walls;
- (v) Four additional parallel bike spaces on the Swan Street footpath (to a total of eight spaces along Swan Street), positioned mid-block away from the Swan Street/Burnley Street intersection;
- (w) Eight additional parallel bike spaces on the Burnley Street footpath positioned mid-block away from the Swan Street/Burnley Street intersection;
- (x) No fewer than 337 bike spaces provided (279 for residents/staff, 42 on-site bike spaces, eight on the Swan Street footpath and eight on the Burnley Street footpath);
- (y) The bicycle parking bays must meet the dimension requirements at clause 52.34-4 of the Yarra Planning Scheme;
- (z) Bicycle parking signage to be provided in accordance with clause 52.34-5 of the Yarra Planning Scheme;
- (aa) The locations of the site access signals;
- (bb) The provision of a shopping trolley return area within the public car park;
- (cc) A widened area providing access to the travelator and lift in the public carpark;
- (dd) The provision of public art as outlined within Condition 2425.
- (ee) Any requirement of the Public Transport Victoria Conditions (Nos. 2834 to 44 48) (where relevant to show on plans);
- (ff) Any requirement of the VicRoads Conditions (Nos. 4945 to 4750) (where relevant to show on plans);
- (gg) Any requirement of the endorsed Sustainable Management Plan (condition 45) (where relevant to show on plans);

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- (hh) Any requirement of the endorsed Waste Management Plan (condition ~~5~~6) (where relevant to show on plans);
 - (ii) Any requirement of the endorsed acoustic report (condition ~~8~~ 9) (where relevant to show on plans);
 - (jj) Any requirement of the endorsed wind report (condition ~~13~~14) (where relevant to show on plans); \
 - (kk) Additional swept path diagrams with regards to the B85 design vehicle passing the B99 design vehicle for the basement levels in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004;
 - (ll) On plan A201 provide an access from the Level 1 car park to the adjoining residential premises numbered 101-102;
 - (mm) On plan A201 and the relevant elevation, at the western end provide a (non-openable) window for natural daylight access to the lobby of Apartments 101-107;
 - (nn) Apartments 405, 505, 605, 705, 805, 905, 10.05 and 11.05 be shown as Type A2 Apartments
 - (oo) Apartments 301, 405, 505, 605, 705, 805, 905 and 10.05 be modified so as to enable eastern light into the living areas;
 - (pp) The apartments on the south western corner be modified so that a balcony or wintergarden is provided to that corner;
 - (qq) An electric vehicle charging station appropriately located.
2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Gymnasium Use~~3. No more than eight staff are permitted on the land at any one time.~~

3. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the hours of 5am and 11pm, seven days per week.

Sustainable Management Plan

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

Waste Management Plan

5. Before the plans are endorsed, an amended Waste Management Plan (WMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The plan must be generally in accordance with the WMP (prepared by Leigh Design dated 2 September 2015), but modified to include:
- (a) Internalising all waste collection via the basement
 - (b) Using a 6.4m truck (to allow clearance and access within the basement)
 - (c) Deletion of reference to trucks propping in Burnley Street.
6. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
7. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Acoustic report

8. Before the use and development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Acoustic Logic and provided to Council on 4 December 2015, but modified to include (or show, or address):
- (a) An assessment of the commercial noise including the loading dock) and vibration impacts (including sleep disturbance criteria) to the proposed dwellings within the development.

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- (b) Rail vibration assessment to the current relevant standard (BS 6472) and using suitable equipment. The acoustic report must make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other requirement to the satisfaction of the Responsible Authority.
9. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Internal Landscape Plan

10. Before the use and development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by ERM and dated 15 April 2012, but modified to include (or show):
- Any relevant changes associated with Condition 1 of this permit;
 - The correct ground floor layout;
 - Landscaping proposed for the eighth and tenth floor communal rooftop gardens;
 - The type, location, quantity, height at maturity and botanical names of all proposed plants;
 - Soil media for the third floor landscaped area; and
 - The maintenance regime required during the contractor maintenance period.
11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - replacing any dead, diseased, dying or damaged plants,
- to the satisfaction of the Responsible Authority.
12. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible [Authority](#).

Wind

13. Before the use and development commences, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by ViPAC and dated 10 November 2015, but modified to include (or show):
- Additional mitigation features on the podium recreation area which achieves the criteria for standing [and](#) or sitting;
 - Quantification of wind conditions and if necessary, additional mitigation strategies to achieve target wind criteria.

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Design Detail

14. Before the use and development commences, the owner of the site must submit detailed engineering and landscaping documentation to the satisfaction of the Responsible Authority and approved by the Responsible Authority and at the full cost of the owner showing the following:
- (a) Construction of a DDA compliant north-south orientated underpass ramp as shown on the Basement and Ground Floor plans received by Council on 4 April 2016. The ramp is to have a gradient of 1:14, be a total width of 2.85m (clear width of 2.65m) and be setback from the kerb by 1m. The ramp is to provide access from the underground tunnel link of Burnley Station (proposed ramp grade to match existing level of underground tunnel link to Burnley Station).
 - (b) Construction of a DDA compliant east-west orientated underpass ramp as shown on the Basement Floor plans received by Council on 4 April 2016. The ramp is to have a gradient of 1:14 with a total width of 3.5m. The ramp is to provide access from the underground tunnel link of Burnley Station to the existing east-west pedestrian path along the southern side of the subject site (proposed ramp grade to match existing level of underground tunnel link to Burnley Station).
 - (c) Construction of a DDA compliant north-south pedestrian access to the pedestrian plaza as shown on the Basement and Ground Floor plans received by Council on 4 April 2016. The ramp is to have a gradient of 1:20, have a minimum width of 2.2m, with a widening to 3.5m in width adjacent to the western entrance of the development (as shown on the Basement Floor Plan). The ramp is to provide access from the underground tunnel link of Burnley Station to the lobby of the development and the pedestrian plaza leading up to Burnley Street (proposed ramp grade to match existing level of underground tunnel link to Burnley Station).
 - (d) Provision of a 3.65m wide footpath along Burnley Street, with 1.73m being within title boundaries of the subject site.
 - (e) In conjunction with VicRoads, Provision of a footpath between 5m and 6m in width along Swan Street, with 2.5m of this being outside of the title boundaries of the subject site.
 - (f) Provision of a ground floor landscape plan which includes the landscaping proposed in the public realm areas and those associated with the Burnley Station improvements.
 - (g) Stormwater treatment and raingardens
 - (h) That the proposed fixing and material are appropriate for the locations given the requirement for durability, live loads and wind loads that are likely to arise.

Streetscape Masterplan

15. Before the use and development commences the applicant must prepare and develop an infrastructure and streetscape masterplan to the satisfaction of the responsible authority and the relevant authorities being in conjunction with Council, VicRoads, VicTrack, Public Transport Victoria and all relevant service authorities for capital improvements in the roads surrounding the development. The infrastructure and streetscape masterplan must be generally in accordance with the Endorsed Plans, The infrastructure and streetscape masterplan Plan must include, but is not limited to, the interface with the Burnley railway station, the mitigation works at the Burnley Street/Swan Street intersection, the improvement to the Burnley Street service road and the streetscape along Swan Street. The extent and scope of the works must be clearly defined before approval is granted by Council. All traffic mitigation works, road infrastructure works and streetscape works shall be funded by the applicant.

Timing of works

16. Before the building is occupied, all works to the public realm (including the extension of the pedestrian footpath within the subject site) as shown on the endorsed plans and within the Design Detail and

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Streetscape Master Plans (referred to in Conditions 15 and 16) must be fully constructed and completed by the owner to the satisfaction of the Responsible Authority.

17. Before the building is occupied, all works associated with the Burnley Station (including the underpass ramp and east-west pedestrian link to the south of the subject site) as shown on the endorsed plans and within the Streetscape Master Plan (referred to in Conditions 15 and 16) must be fully constructed and completed by the owner to the satisfaction of the Responsible Authority and VicTrack.

Section 173 Agreement (Public Realm Improvements)

18. Before the development starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, providing for the following:
- (a) The Owner must provide four bikes (within the total eight bike spaces) installed along the Swan Street footpath for a bike share operation;
 - (b) The Owner must provide unfettered 24 hour public access over that part of the land to be used for the new Swan and Burnley Street footpaths and the pedestrian plaza;
 - (c) The owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 19 (a) and 19(b) at the cost of the owners of the site and to the satisfaction of the Yarra City Council;
 - (d) The owner(s) must obtain and maintain insurance, approved by Yarra City Council, for the public liability and indemnify Yarra City Council against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in condition 19 (a) and 19(b).
19. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

Section 173 Agreement (Burnley Station Improvements)

20. Before the development starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority, VicTrack and Public Transport Victoria under section 173 of the *Planning and Environment Act 1987*, providing for the following:
- (a) The Owner must provide unfettered 24 hour public access over that part of the land to be used for the new east-west link (footpath), pedestrian plaza and the underpass ramp;
 - (b) The owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 21(a) at the cost of the owners of the site and to the satisfaction of the Yarra City Council, VicTrack and Public Transport Victoria;
 - (c) The owner(s) must obtain and maintain insurance, approved by Yarra City Council, VicTrack and Public Transport Victoria, for the public liability and indemnify Yarra City Council, VicTrack and Public Transport Victoria against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in condition 21(a).
21. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority, [Public Transport Victoria](#) and [VicTrack](#).

Section 173 Agreement (Affordable Housing)

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22. Before the development is occupied starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 which requires that the owner must facilitate the provision of affordable housing by:
- ~~to provide 5 percent of the total dwelling provision to be affordable housing in association with an accredited housing association~~
- (a) entering into an arrangement with a state government accredited housing association in respect of 5 percent of the total number of dwellings to be purchased or managed by that accredited housing association as affordable housing within the meaning of that affordable housing agency's remit to the satisfaction of the responsible authority; or.
- (b) making other arrangements for the provision of affordable housing in respect of the same number of dwellings to the satisfaction of the responsible authority.
23. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority

Public Art Management Plan

24. Before the building is occupied, a Public Art Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority after consulting with VicRoads. When approved, the Public Art Management Plan will be endorsed and will then form part of this permit. The Public Art Management Plan must include, but not be limited to:
- (a) Details of the commissioned artist(s);
- (b) Description of the proposed art work to a maximum of \$50,000, including:
- (i) Materials;
- (ii) Colours;
- (iii) Dimensions;
- (iv) Content;
- (v) Special features;
- (c) Details of the installation process; and
- (d) Details of art work maintenance schedule.
25. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the approved public art must be completed. Once completed, the public art must be maintained in accordance with the endorsed Public Art Management Plan to the satisfaction of the Responsible Authority.

Traffic Impact Analysis

26. Before the use and development commences, an amended Traffic Impact Analysis which is generally in accordance with the document supplied with the application but updated to reflect the following is to be provided assessing (to the satisfaction of the Responsible Authority):
- (a) Any requirement of the Public Transport Victoria Conditions in this permit (Nos. 31 to 48) (where relevant);
- (b) Any requirement of the VicRoads Conditions in this permit (Nos. 49 to 50) (where relevant);
- (c) 6.0 movements per 100m² for both peak periods for the supermarket traffic generation rate;
- (d) Whether it is necessary to remove the removal of first on-street car space on the south side of Swan Street, west of Burnley Street; and the two car parking spaces on the south side of Swan Street and east of those agreed to be removed as part of the development and east of the site.

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- (e) The width of the Burnley service road and the location of existing and future (where known) bus stops in the service road and how bus access and bus parking will interact with trucks accessing the loading bay; and
- (f) Loading arrangements including a Loading Management Plan for the operation of the supermarket loading dock.
- ~~(g) The retention of the three on-street car spaces to the east of the subject site on the southern side of Swan Street.~~

~~Within six months of the occupation of the development, an amended Traffic Impact Analysis to be provided to assess if the three spaces to the east of the subject site must be deleted for improved efficiency/capacity to the road network (to the satisfaction of the Responsible Authority).~~

External Landscape Plan

27. Before the use and development commences, an amended External Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by ERM and dated 15 April 2012, but modified to include (or show):
- (a) Any relevant changes associated with Condition 1 of this permit;
 - (b) The correct ground floor layout;
 - (c) Notes regarding maintenance.
 - (d) Design details for stormwater treatment and any rain gardens
 - (e) Tree species on the Swan St frontage consistent with existing replacement trees (*Lagerstoemia indica* x *L.fauriei* 'Natchez' (a white flowering Crepe Myrtle) at 12m spacings). These would be planted by Council, at the permit holder's expense.
 - (f) dwarf Lemon scented gum (*Corymbia citriodora*) at 6m spacings to be used as tree species along Burnley are suggested to be the dwarf Lemon scented gum (*Corymbia citriodora*) at 6m spacings.
 - (g) Final plant species details including a plant schedule, plant numbers and spacings, and specific plant locations.

The landscape planting associated with the External Landscape Plan (Condition 29) will be carried out by the Responsible Authority, at the permit holder's expense.

Public Transport Victoria Conditions ~~(Nos. 31 to 48)~~*Pre Construction*

28. Before the development starts, including demolition and bulk excavations or other time agreed to in writing with Public Transport Victoria, amended plans to the satisfaction of Public Transport Victoria must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. These plans must be generally in accordance with the plans submitted to Public Transport Victoria with the application but are to be modified to show:
- a) relocation of the fire access stairwell so that it does not rely on access to onto private property (Vic Track land) at the rear of the subject site property.
 - ~~b) self-enforcing "left-in-left-out" access only from Swan Street with associated signs.~~
 - b) provision for retention and consolidation if possible of the existing of-a bus stop and associated infrastructure within the Burnley Street underpass. and associated infrastructure
- all ~~all~~ to the satisfaction of Public Transport Victoria.

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29. The signal phasing and plans must incorporate tram priority measures including tram detector loops, car parking restrictions or any signal phasing alterations to the satisfaction of VicRoads and Public Transport Victoria. Prior to the operation of the new signals all works must be completed in accordance with the approved plans, at the full cost to the permit holder, to the satisfaction of VicRoads and Public Transport Victoria.
30. Prior to the commencement of works, detailed construction / engineering plans and computations for the works at Burnley Station shown on the endorsed plans must be submitted and approved by VicTrack and Public Transport Victoria. The Plans must detail all works proposed within the rail environment, including excavation of the site adjacent to the railway corridor and any impact on the rail reserve. The plans must ensure compliance regarding building clearances to aerial power lines as per the applicable Victorian Electrical Safety Regulations, to the satisfaction of Vic Track and Public Transport Victoria. The Construction Management Plan must also outline how traffic will be managed throughout the construction of the development and mitigate impacts to public transport, including trains and trams. All traffic management and mitigation costs will be at the full cost of the permit holder.
31. Unless otherwise agreed in writing with Public Transport Victoria, ~~before the commencement of works, a~~ Construction Management Plan must be submitted to Public Transport Victoria and Vic Track for approval. The Construction Management Plan must designate operating hours and include details of (but not be limited to) management proposals and actions to protect Vic Track assets, rail infrastructure and the operation of the public transport network during construction and must set out objectives, performance and monitoring requirements to the satisfaction of Vic Track & Public Transport Victoria.
32. Works undertaken within railway land must consider all standards and work practices for work within the railway corridor and conform to all relevant Australian standards including Victorian Rail Industry Operator Group (VRIOG) standards for any interface works and installation of underground utility services to the satisfaction of the Rail Operator and Public Transport Victoria.
- ~~Unless otherwise agreed in writing with Public Transport Victoria, before the commencement of works, a Traffic Management Plan must be submitted to Public Transport Victoria which outlines how traffic will be managed throughout the construction of the development and mitigate impacts to public transport, including trains and trams. The Traffic Management Plan must be prepared and implemented to the satisfaction of Public Transport Victoria. All traffic management and mitigation costs will be at the full cost of the permit holder.~~
33. Unless otherwise agreed in writing with Public Transport Victoria, before the development starts a landscape plan and schedule must be submitted to the satisfaction of VicTrack and Public Transport Victoria for the area of works within the rail corridor.
34. Unless otherwise agreed in writing with Public Transport Victoria, prior to construction commencing including demolition, a construction control and indemnity agreement as required by Public Transport Victoria must be in place to the satisfaction of Public Transport Victoria at the full cost to the permit holder.
- General Conditions*
- ~~Prior to the occupation of the development, all works outlined on the endorsed plans for the left in / left out access must be completed with associated signs, to the satisfaction of Public Transport Victoria at the full cost to the permit holder.~~
35. Prior to the occupation of the development, all works outlined on the endorsed plans for the signalised access must be completed with associated signs, to the satisfaction of Public Transport Victoria at the full cost to the permit holder.
36. Unless otherwise agreed in writing with VicTrack, permanent or temporary soil anchors must not be installed on railway land.
37. Prior to commencement of works, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.

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38. Any Rail Operator costs required to review documents or construction plan works within the rail environment must be met by the permit holder.
39. Any damage to public transport infrastructure as a consequence of the construction works must be rectified to the satisfaction of Public Transport Victoria, at the full cost of the permit holder.
40. The permit holder must take all reasonable steps to ensure that disruptions to train and tram operation are kept to a minimum during the construction of the development, and in compliance with the Rail and Tram Safety and Environmental requirements.
41. Building materials (including glass/window/ balcony treatments) likely to have an effect on train driver operations along the rail corridor must be non-reflective and avoid using red or green colour schemes, to the satisfaction of the Rail Operator.
42. No lighting is to be erected that throws light onto the railway tracks or which interferes with the visibility of signals and the rail lines by train drivers, to the satisfaction of the Rail Operator.
43. No drainage, effluent, waste, soil or other materials must enter or be directed to railway land or stored or deposited on railway land.
44. Any wall which may be permitted to be located on the railway reserve boundary must be cleaned and finished using a graffiti resistant finish, or alternative measures used to prevent or reduce the potential of graffiti, to the satisfaction of Public Transport Victoria and the Rail Operator.

~~Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operators Site Access Procedures and conditions.~~

VicRoads Conditions (Nos. 49 to 50)

45. Before the use approved by this permit commences the following roadworks on Swan Street, Richmond must be completed at no cost to and to the satisfaction of the Roads Corporation:
 - (a) Traffic signals at the Swan Street access.
 - (b) Removal of the existing car parking spaces along the Swan Street property frontage and installation of "No Stopping" signs.
 - (c) Removal of six (6) existing car parking spaces along the north side of Swan Street, west of Cutter Street, and the installation of "no Stopping" signs.
46. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to VicRoads prior to the occupation of the building hereby approved.
47. The development of the subject site is to be in accordance with the recommendations and conclusions of the Buffer Volume Constraints Review prepared by GHD dated 13 August 2015 as received by VicRoads and City Link on 18 August 2015.

EPA Conditions (Nos. 51 to 52)

48. Noise emissions from the premises must comply with the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
49. Noise emissions from the premises must comply with the requirements of the State Environment Protection Policy (Control of Music Noise From Public Premises) No. N-2.

Road Infrastructure

50. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
 - (a) in accordance with any requirements or conditions imposed by Council;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.
51. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

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52. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all building works and connections for underground utility services, the footpath immediately outside the property's Burnley and Swan Streets road frontages must be reconstructed (including kerb and channel):
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
53. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority,
- (a) the full width road pavement of the Burnley Street service road and
 - (b) the half width pavement of Swan Street between the kerb and the tramway tracks immediately outside the site's frontages must be profiled and re-sheeted if damaged as a result of the development: -
- must be constructed and carried out
- a) at the permit holder's cost; and
 - b) to the satisfaction of the Responsible Authority and VicRoads.
54. Before the building is occupied any damage to Council infrastructure resulting from the development must be reinstated:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
55. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of the two electricity poles necessary to facilitate the development must be undertaken:
- (a) in accordance with any requirements or conditions imposed by the relevant authority and Yarra Trams;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.
56. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, eight bike spaces must be installed on the Burnley Street footpath and eight on the Swan Street footpath:
- (a) at the permit holder's cost; and
 - (b) in a location and manner, to the satisfaction of the Responsible Authority.

Section 173 Agreement (Car Share Space Agreement)

57. Before the building is occupied, the owner must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 and apply to the Registrar of Titles to have the agreement registered on each of the titles to the land under Section 181 of the Act. Under the agreement, the owner must covenant with the Responsible Authority that provision will be made for a single car share vehicle space on-site by way of arrangement with a car share operator and/or the future Owners Corporation for a minimum period of 10 years. The agreement will reflect that any costs associated with ensuring ongoing availability of at least a single car share vehicle space on site will be borne by the owner. All costs of preparation, execution and registration of the agreement must be borne by the owner of the land, or the future Owners Corporation, including those costs incurred by the Responsible Authority.

Car parking

58. Before the use and development commences, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) the provision of electronic signage displaying the number of vacant car spaces available;

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	(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	

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- (b) signage and line marking plan of the various parking 'zones';
 - (c) the number and location of car parking spaces allocated to each tenancy;
 - (d) any tandem parking spaces allocated to a single tenancy;
 - (e) the number and location of car spaces for shared use, including time of shared use;
 - (f) the management of visitor car parking spaces and security arrangements for occupants of the development, including details on how residential visitors are to access car parking;
 - (g) details of way-finding, cleaning and security of end of trip bicycle facilities;
 - (h) policing arrangements and formal agreements;
 - (i) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc;
 - (j) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 6; and
 - (k) details regarding the management of loading and unloading of goods and materials.
59. The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
60. All small car parking spaces are to be signed as small car parking spaces.
61. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
 - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
 - (c) treated with an all-weather seal or some other durable surface; and
 - (d) line-marked or provided with some adequate means of showing the car parking spaces;
- to the satisfaction of the Responsible Authority.
62. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

~~Prior to the occupation of the supermarket, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987, providing for the following:~~

- ~~(e) — That only delivery trucks which have a maximum height of 3.8m and below may be used within the loading bay area of the development;~~

~~The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.~~

Green Travel Plan

63. Before the use and development commences, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to, the following:
- (a) describe the location in the context of alternative modes of transport;
 - (b) the provision of real time passenger information displays for nearby stops within each residential lobby;
 - (c) employee / resident welcome packs (e.g. provision of Met Cards/Myki);
 - (d) a designated 'manager' or 'champion' responsible for co-ordination and implementation;
 - (e) details of bicycle parking and bicycle routes;
 - (f) details of GTP funding and management responsibilities; and

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- (g) include provisions to be updated not less than every 5 years.
64. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Lighting

65. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a public lighting design scheme along the development's road frontages (including along the pedestrian link to Burnley Train Station) demonstrating adequate lighting levels for pedestrians as per Australian Standard requirements must be submitted to and approved by the Responsible Authority. Notations must confirm that the lighting scheme has been approved by CitiPower and all lighting infrastructure and hardware will be funded by the Permit Holder.
66. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances must be provided on the subject site. Lighting must be:
- (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity,
- to the satisfaction of the Responsible Authority.

General

67. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
68. As part of [the implementation of the permitted development ongoing consultant team](#), Elenberg Fraser Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.
69. The amenity of the area must not be detrimentally affected by the use, including through:
- (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
70. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
71. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
72. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
73. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
74. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;

Date issued:**Date permit comes into operation: Signature for the responsible authority:**

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

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- (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
- (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Construction Management

75. Before the use and development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) works necessary to protect road and other infrastructure;
~~remediation of any damage to road and other infrastructure;~~
 - (c) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
 - (d) facilities for vehicle washing, which must be located on the land;
 - (e) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
 - (f) site security;
 - (g) management of any environmental hazards including, but not limited to,:
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery;
 - (h) the construction program;
 - (i) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
 - (j) parking facilities for construction workers;
 - (k) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
 - (l) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
 - (m) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
 - (n) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
 - (o) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
 - (i) using lower noise work practice and equipment;
 - (ii) the suitability of the land for the use of an electric crane;
 - (iii) silencing all mechanical plant by the best practical means using current technology;
 - (iv) fitting pneumatic tools with an effective silencer;
 - (v) other relevant considerations; and
 - (p) any site-specific requirements.
- ~~and d~~ During the construction: [for the following matters:](#)

Date issued:

Date permit comes into operation: Signature for the responsible authority:

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

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

And upon completion, the following matter:

- (v) remediation of any damage to road and other infrastructure

Time expiry

76. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit; or
 - (c) the use has not commenced within five years of the date of this permit.
77. The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes:

The site is located within an Environmental Audit Overlay. Pursuant to Clause 45.03 of the Yarra Planning Scheme, the requirements of the Environmental Audit Overlay must be met prior to the commencement of development permitted under the permit.

A building permit maybe required before development is commenced. Please contact Council's Building Services on 9205 5095 to confirm.

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

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5585 for further information.

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

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

In accordance with the Yarra Planning Scheme, a 4.5 per cent public open space contribution will apply in the event of the subdivision of the land.

Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the Permit Holder's expense after seeking approval from the relevant authority and Yarra Trams.

VicRoads Notes:

Separate consent for works within the road reserve and the specifications of these works is required under the Road Management Act. For the purposes of this application the works will include provision of:

- traffic signals

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- no stopping signs and removal of on street car spaces along the Swan Street property frontage.

Separate consent will be required from VicRoads (the Roads Corporation) under the Road Management Act 2004 for buildings and works undertaken outside the title boundary within a Road Zone Category 1 (Swan Street and Burnley Street Overpass and associated embankment). Please contact VicRoads prior to commencing any works

The proposed development requires reinstatement of disused crossovers to kerb and channel. Separate approval under the Road Management Act 2004 for this activity may be required from VicRoads (the Roads Corporation). Please contact VicRoads prior to commencing any works.

Any change to the siting and height of buildings will require the views of the relevant authorities including City Link VicRoads and EPA.

PTV Note:

Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operators Site Access Procedures and conditions.

<p>Date issued:</p>	<p>Date permit comes into operation: (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)</p>	<p>Signature for the responsible authority:</p>
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IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit. The permit was granted by the Minister under section 96I of the **Planning and Environment Act 1987** on approval of Amendment No. C185 to the Yarra Planning Scheme.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT REVIEWS?

- In accordance with section 96M of the **Planning and Environment Act 1987**, the applicant may not apply to the Victorian Civil and Administrative Tribunal for a review of any condition in this permit.

Date issued:	Date permit comes into operation: (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	Signature for the responsible authority:

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Appendix D Panel recommended version of Design and Development Overlay Schedule 14

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SCHEDULE 14 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO14**

462-482 SWAN STREET RICHMOND

1.0 Design objectives

DD/MM/YYYY
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- To provide for high density, taller development that delivers significant public realm outcomes.
- To reinforce the corner of Swan Street and Burnley Street as a vibrant commercial, retail and residential location.
- To encourage development that provides a high standard of on-site amenity.
- To establish a highly walkable and cycle friendly public realm.
- To strengthen connectivity to Burnley Station.
- To provide passive surveillance of the public realm.
- To ensure new development provides well-located accessible and safe car parking areas that do not visually dominate the streetscape.
- To ensure new development is integrated with the surrounding urban context.
- To ensure new development achieves excellence in architecture and urban design.
- To ensure that new development does not result in unreasonable overshadowing of the public realm including the adjoining streets, the Burnley Railway Station or neighbouring residential areas

2.0

DD/MM/YYYY
Proposed
C185

Buildings and Works

Buildings and works ~~must~~ should be constructed in accordance with the following requirements:

Building heights

- The building height ~~must~~ should not exceed a maximum of 42 metres (~~+12 storeys~~).
- The maximum height does not include building services which should be hidden from view from any adjoining public space or designed as architectural roof top features. Building services include but are not limited to plant rooms, air conditioning, lift overruns and roof mounted equipment.

Building setbacks

- Reinforce the street wall height along Swan Street and Burnley Street to create a consistent 3 storey built form.
- Upper levels ~~must~~ should be setback from the podium at all site boundaries, except for façade articulation of up to 0.5m, as follows:
 - A minimum of 6m from Swan Street to provide upper level setbacks from the primary street frontage.
 - A 5m setback from the eastern boundary to provide upper level building separation between the subject site and any future redevelopment of the abutting property.
 - A minimum of 3m setbacks from the south (rail corridor) and west (Burnley Street).
- Provide building separation between built form elements at upper levels.
- Ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.

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Building design

- Provide active frontages at ground level and overlooking of the public realm, including station environs from upper levels.
- Ensure development is of a high architectural standard in terms of its form, scale, massing, articulation and materials and that these design elements respond to the site context.
- Ensure development is designed to ameliorate adverse wind conditions at street level, communal open spaces, balconies and adjoining properties.
- Ensure building services are screened from the public realm and communal open spaces.

Traffic and access

- Ensure convenient and adequate bicycle parking is provided at street level to cater for the general public.
- Integrate carparking into the building design and conceal from the public realm.
- Ensure vehicular access and egress and loading bay arrangements are designed to maximise pedestrian safety.

Public realm

- Provide improved connectivity between Swan Street, Burnley Street and Burnley Station.
- Improve the interface between the development and the east-west pedestrian link abutting the southern site boundary.
- Enhance the amenity and appearance of the public realm along the Swan Street and Burnley Street frontage and east-west pedestrian link, including elements such as improved footpath treatments, lighting, street trees and street furniture.
- Ensure new or improved pedestrian links promote a sense of safety for day and night-time conditions.
- Minimise overshadowing of adjoining streets, the public realm and existing residential areas.
- Ensure no unreasonable overshadowing impact to Burnley Station.

Amenity

- Provide acoustic treatments to address the impact of existing and potential noise from the rail corridor, the Burnley Street overpass and Swan Street.
- Provide awnings over footpaths to Swan Street and Burnley Street to provide weather protection.
- Ensure built form and internal building layout are designed to maximise solar access, access to daylight, ventilation and outlook.

3.0

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Permit Requirements

~~A permit cannot be granted to construct a building or construct or carry out works which are not in accordance with these requirements.~~

A permit may be granted to construct a building or construct or carry out works which varies the specified height and/or the setbacks specified in Clause 2.0, where the applicant demonstrates, to the satisfaction of the responsible authority, that all of the following would be satisfied:

- that the built form outcome as a result of the proposed variations satisfies the Design Objectives of this Schedule;
- that the proposal will achieve:
 - An exemplary built form outcome;
 - An exemplary public realm outcome;
 - Innovative environmentally sustainable development;
 - Minimal additional overshadowing (beyond that which would be generated by a proposal that complies with the specified height and setback requirements) of the

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public realm including the adjoining streets, the Burnley Station, public places and the residential properties along Madden Grove;

- Minimal adverse amenity impacts to adjoining properties (beyond that which would be generated by a proposal that complies with the specified height and setback requirements).

4.0 Application requirements

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An application for a permit to construct a building or construct or carry out works must be accompanied by the following information to the satisfaction of the Responsible Authority:

- Site context and existing conditions plan including, levels, any existing buildings, public realm and evaluation of opportunities and constraints.
- Detailed design drawings including elevation drawings to scale showing the colour and materials of all buildings and works.
- A report demonstrating that the development will achieve all of the Design Objectives included in this schedule.
- A landscape plan prepared by a suitably qualified landscape designer.
- An acoustic report prepared by a suitably qualified acoustic engineer, demonstrating how the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, sleep disturbance criteria and any other relevant Australian Standards, as applicable, will be met and must prescribe the form of acoustic treatment taking into consideration the agent of change principle. Where necessary vibration isolation methods must be prescribed to control structure borne sound to reduce vibration from Burnley Station, mechanical equipment, car lifts and transformers.
- A traffic, and carparking report providing the following details:
 - The appearance, layout and allocation of car parking - including visitor and flexi car parking.
 - Bicycle parking provision including number and location.
 - Vehicular ingress and egress to and from the site.
 - Location and arrangements for loading and unloading of heavy vehicles.
- A waste management plan prepared by a suitably qualified waste management expert.
- A 3D model of the development and its surrounds in conformity with the Department of Environment, Water, Land and Planning Infrastructure Advisory Note – 3D Digital Modelling. Where substantial modifications are made to the proposed building envelope, a revised 3D digital model must be submitted to the Responsible Authority.

5.0 Subdivision

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No specific requirements.

6.0 Advertising signs

DD/MM/YYYY
Proposed
C185

No specific requirements.

7.0 Decision guidelines

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C185

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- How the development responds to each of the Design Objectives and the requirements included in clause 2 of this schedule.

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- The design, scale, height, mass and visual bulk of the development in relation to the surrounding built form.
- Any minor variations from the required setbacks resulting from façade articulation.
- How the proposal improves the pedestrian environment and other areas of the public realm.
- The location, layout and appearance of areas set aside for car parking, vehicular access and egress and loading bay arrangements.
- The effectiveness of new development in protecting the amenity of occupants from the off-site impacts of existing uses and activities.
- The views of relevant referral authorities.
- [How a proposal to vary the specified height and setbacks specified in this Schedule responds to the permit requirements outlined in Clause 3.0](#)

8.0 Policy References

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~~The Swan Street Structure Plan, 2013.~~

Appendix D Panel recommended version of Design and Development Overlay Schedule 14

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SCHEDULE 14 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO14**

462-482 SWAN STREET RICHMOND

1.0 Design objectives

DD/MM/YYYY
Proposed
C185

- To provide for high density, taller development that delivers significant public realm outcomes.
- To reinforce the corner of Swan Street and Burnley Street as a vibrant commercial, retail and residential location.
- To encourage development that provides a high standard of on-site amenity.
- To establish a highly walkable and cycle friendly public realm.
- To strengthen connectivity to Burnley Station.
- To provide passive surveillance of the public realm.
- To ensure new development provides well-located accessible and safe car parking areas that do not visually dominate the streetscape.
- To ensure new development is integrated with the surrounding urban context.
- To ensure new development achieves excellence in architecture and urban design.
- To ensure that new development does not result in unreasonable overshadowing of the public realm including the adjoining streets, the Burnley Railway Station or neighbouring residential areas

2.0 Buildings and Works

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Buildings and works ~~must~~ should be constructed in accordance with the following requirements:

Building heights

- The building height ~~must~~ should not exceed a maximum of 42 metres (~~+12 storeys~~).
- The maximum height does not include building services which should be hidden from view from any adjoining public space or designed as architectural roof top features. Building services include but are not limited to plant rooms, air conditioning, lift overruns and roof mounted equipment.

Building setbacks

- Reinforce the street wall height along Swan Street and Burnley Street to create a consistent 3 storey built form.
- Upper levels ~~must~~ should be setback from the podium at all site boundaries, except for façade articulation of up to 0.5m, as follows:
 - A minimum of 6m from Swan Street to provide upper level setbacks from the primary street frontage.
 - A 5m setback from the eastern boundary to provide upper level building separation between the subject site and any future redevelopment of the abutting property.
 - A minimum of 3m setbacks from the south (rail corridor) and west (Burnley Street).
- Provide building separation between built form elements at upper levels.
- Ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.

Attachment 4 - Am C185 Panel Recommended Version of DDO14

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Building design

- Provide active frontages at ground level and overlooking of the public realm, including station environs from upper levels.
- Ensure development is of a high architectural standard in terms of its form, scale, massing, articulation and materials and that these design elements respond to the site context.
- Ensure development is designed to ameliorate adverse wind conditions at street level, communal open spaces, balconies and adjoining properties.
- Ensure building services are screened from the public realm and communal open spaces.

Traffic and access

- Ensure convenient and adequate bicycle parking is provided at street level to cater for the general public.
- Integrate carparking into the building design and conceal from the public realm.
- Ensure vehicular access and egress and loading bay arrangements are designed to maximise pedestrian safety.

Public realm

- Provide improved connectivity between Swan Street, Burnley Street and Burnley Station.
- Improve the interface between the development and the east-west pedestrian link abutting the southern site boundary.
- Enhance the amenity and appearance of the public realm along the Swan Street and Burnley Street frontage and east-west pedestrian link, including elements such as improved footpath treatments, lighting, street trees and street furniture.
- Ensure new or improved pedestrian links promote a sense of safety for day and night-time conditions.
- Minimise overshadowing of adjoining streets, the public realm and existing residential areas.
- Ensure no unreasonable overshadowing impact to Burnley Station.

Amenity

- Provide acoustic treatments to address the impact of existing and potential noise from the rail corridor, the Burnley Street overpass and Swan Street.
- Provide awnings over footpaths to Swan Street and Burnley Street to provide weather protection.
- Ensure built form and internal building layout are designed to maximise solar access, access to daylight, ventilation and outlook.

3.0DD/MM/YYYY
Proposed
C185**Permit Requirements**

~~A permit cannot be granted to construct a building or construct or carry out works which are not in accordance with these requirements.~~

A permit may be granted to construct a building or construct or carry out works which varies the specified height and/or the setbacks specified in Clause 2.0, where the applicant demonstrates, to the satisfaction of the responsible authority, that all of the following would be satisfied:

- that the built form outcome as a result of the proposed variations satisfies the Design Objectives of this Schedule;
- that the proposal will achieve:
 - An exemplary built form outcome;
 - An exemplary public realm outcome;
 - Innovative environmentally sustainable development;
 - Minimal additional overshadowing (beyond that which would be generated by a proposal that complies with the specified height and setback requirements) of the

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public realm including the adjoining streets, the Burnley Station, public places and the residential properties along Madden Grove;

- Minimal adverse amenity impacts to adjoining properties (beyond that which would be generated by a proposal that complies with the specified height and setback requirements).

4.0 Application requirements

DD/MM/YYYY
Proposed
C185

An application for a permit to construct a building or construct or carry out works must be accompanied by the following information to the satisfaction of the Responsible Authority:

- Site context and existing conditions plan including, levels, any existing buildings, public realm and evaluation of opportunities and constraints.
- Detailed design drawings including elevation drawings to scale showing the colour and materials of all buildings and works.
- A report demonstrating that the development will achieve all of the Design Objectives included in this schedule.
- A landscape plan prepared by a suitably qualified landscape designer.
- An acoustic report prepared by a suitably qualified acoustic engineer, demonstrating how the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, sleep disturbance criteria and any other relevant Australian Standards, as applicable, will be met and must prescribe the form of acoustic treatment taking into consideration the agent of change principle. Where necessary vibration isolation methods must be prescribed to control structure borne sound to reduce vibration from Burnley Station, mechanical equipment, car lifts and transformers.
- A traffic, and carparking report providing the following details:
 - The appearance, layout and allocation of car parking - including visitor and flexi car parking.
 - Bicycle parking provision including number and location.
 - Vehicular ingress and egress to and from the site.
 - Location and arrangements for loading and unloading of heavy vehicles.
- A waste management plan prepared by a suitably qualified waste management expert.
- A 3D model of the development and its surrounds in conformity with the Department of Environment, Water, Land and Planning Infrastructure Advisory Note – 3D Digital Modelling. Where substantial modifications are made to the proposed building envelope, a revised 3D digital model must be submitted to the Responsible Authority.

5.0 Subdivision

DD/MM/YYYY
Proposed
C185

No specific requirements.

6.0 Advertising signs

DD/MM/YYYY
Proposed
C185

No specific requirements.

7.0 Decision guidelines

DD/MM/YYYY
Proposed
C185

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- How the development responds to each of the Design Objectives and the requirements included in clause 2 of this schedule.

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- The design, scale, height, mass and visual bulk of the development in relation to the surrounding built form.
- Any minor variations from the required setbacks resulting from façade articulation.
- How the proposal improves the pedestrian environment and other areas of the public realm.
- The location, layout and appearance of areas set aside for car parking, vehicular access and egress and loading bay arrangements.
- The effectiveness of new development in protecting the amenity of occupants from the off-site impacts of existing uses and activities.
- The views of relevant referral authorities.
- [How a proposal to vary the specified height and setbacks specified in this Schedule responds to the permit requirements outlined in Clause 3.0](#)

8.0 Policy References

DD/MM/YYYY
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C185

~~The Swan Street Structure Plan, 2013.~~

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SCHEDULE 14 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO14**

462-482 SWAN STREET RICHMOND

1.0 Design objectives

DD/MM/YYYY
Proposed
C185

- To provide for high density, taller development that delivers significant public realm outcomes.
- To reinforce the corner of Swan Street and Burnley Street as a vibrant commercial, retail and residential location.
- To encourage development that provides a high standard of on-site amenity.
- To establish a highly walkable and cycle friendly public realm.
- To strengthen connectivity to Burnley Station.
- To provide passive surveillance of the public realm.
- To ensure new development provides well-located accessible and safe car parking areas that do not visually dominate the streetscape.
- To ensure new development is integrated with the surrounding urban context.
- To ensure new development achieves excellence in architecture and urban design.
- To ensure that new development does not result in unreasonable overshadowing of the public realm including the adjoining streets, the Burnley Railway Station or neighbouring residential areas

2.0 Buildings and Works

DD/MM/YYYY
Proposed
C185

Buildings and works must be constructed in accordance with the following requirements:

Building heights

- The building height must not exceed a maximum of 42 metres.
- The maximum height does not include building services which should be hidden from view from any adjoining public space or designed as architectural roof top features. Building services include but are not limited to plant rooms, air conditioning, lift overruns and roof mounted equipment.

Buildings and works should be constructed in accordance with the following requirements:

Building setbacks

- Reinforce the street wall height along Swan Street and Burnley Street to create a consistent 3 storey built form.
- Upper levels should be setback from the podium at all site boundaries, except for façade articulation of up to 0.5m, as follows:
 - A minimum of 6m from Swan Street to provide upper level setbacks from the primary street frontage.
 - A 5m setback from the eastern boundary to provide upper level building separation between the subject site and any future redevelopment of the abutting property.
 - A minimum of 3m setbacks from the south (rail corridor) and west (Burnley Street).
- Provide building separation between built form elements at upper levels.
- Ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.

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Building design

- Provide active frontages at ground level and overlooking of the public realm, including station environs from upper levels.
- Ensure development is of a high architectural standard in terms of its form, scale, massing, articulation and materials and that these design elements respond to the site context.
- Ensure development is designed to ameliorate adverse wind conditions at street level, communal open spaces, balconies and adjoining properties.
- Ensure building services are screened from the public realm and communal open spaces.

Traffic and access

- Ensure convenient and adequate bicycle parking is provided at street level to cater for the general public.
- Integrate carparking into the building design and conceal from the public realm.
- Ensure vehicular access and egress and loading bay arrangements are designed to maximise pedestrian safety.

Public realm

- Provide improved connectivity between Swan Street, Burnley Street and Burnley Station.
- Improve the interface between the development and the east-west pedestrian link abutting the southern site boundary.
- Enhance the amenity and appearance of the public realm along the Swan Street and Burnley Street frontage and east-west pedestrian link, including elements such as improved footpath treatments, lighting, street trees and street furniture.
- Ensure new or improved pedestrian links promote a sense of safety for day and night-time conditions.
- Minimise overshadowing of adjoining streets, the public realm and existing residential areas.
- Ensure no unreasonable overshadowing impact to Burnley Station.

Amenity

- Provide acoustic treatments to address the impact of existing and potential noise from the rail corridor, the Burnley Street overpass and Swan Street.
- Provide awnings over footpaths to Swan Street and Burnley Street to provide weather protection.
- Ensure built form and internal building layout are designed to maximise solar access, access to daylight, ventilation and outlook.

3.0

DD/MM/YYYY
Proposed
C185

Permit Requirements

A permit cannot be granted to construct a building or construct or carry out works which are not in accordance with the building height requirements in Clause 2.0.

A permit may be granted to construct a building or construct or carry out works which varies the setbacks specified in Clause 2.0, where the applicant demonstrates, to the satisfaction of the responsible authority, that all of the following would be satisfied:

- that the built form outcome as a result of the proposed variations satisfies the Design Objectives of this Schedule;
- that the proposal will achieve:
 - An exemplary built form outcome;
 - An exemplary public realm outcome;
 - Innovative environmentally sustainable development;

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- Minimal additional overshadowing (beyond that which would be generated by a proposal that complies with the specified setback requirements) of the public realm;
- Minimal adverse amenity impacts to adjoining properties (beyond that which would be generated by a proposal that complies with the specified setback requirements).

4.0DD/MM/YYYY
Proposed
C185**Application requirements**

An application for a permit to construct a building or construct or carry out works must be accompanied by the following information to the satisfaction of the Responsible Authority:

- Site context and existing conditions plan including, levels, any existing buildings, public realm and evaluation of opportunities and constraints.
- Detailed design drawings including elevation drawings to scale showing the colour and materials of all buildings and works.
- A report demonstrating that the development will achieve all of the Design Objectives included in this schedule.
- A landscape plan prepared by a suitably qualified landscape designer.
- An acoustic report prepared by a suitably qualified acoustic engineer, demonstrating how the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, sleep disturbance criteria and any other relevant Australian Standards, as applicable, will be met and must prescribe the form of acoustic treatment taking into consideration the agent of change principle. Where necessary vibration isolation methods must be prescribed to control structure borne sound to reduce vibration from Burnley Station, mechanical equipment, car lifts and transformers.
- A traffic, and car parking report providing the following details:
 - The appearance, layout and allocation of car parking - including visitor and flexi car parking.
 - Bicycle parking provision including number and location.
 - Vehicular ingress and egress to and from the site.
 - Location and arrangements for loading and unloading of heavy vehicles.
- A waste management plan prepared by a suitably qualified waste management expert.
- A 3D model of the development and its surrounds in conformity with the Department of Environment, Water, Land and Planning Infrastructure Advisory Note – 3D Digital Modelling. Where substantial modifications are made to the proposed building envelope, a revised 3D digital mode must be submitted to the Responsible Authority.

5.0DD/MM/YYYY
Proposed
C185**Subdivision**

No specific requirements.

6.0DD/MM/YYYY
Proposed
C185**Advertising signs**

No specific requirements.

7.0DD/MM/YYYY
Proposed
C185**Decision guidelines**

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- How the development responds to each of the Design Objectives and the requirements included in clause 2 of this schedule.
- The design, scale, height, mass and visual bulk of the development in relation to the surrounding built form.

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- Any minor variations from the required setbacks resulting from façade articulation.
- How the proposal improves the pedestrian environment and other areas of the public realm.
- The location, layout and appearance of areas set aside for car parking, vehicular access and egress and loading bay arrangements.
- The effectiveness of new development in protecting the amenity of occupants from the off-site impacts of existing uses and activities.
- The views of relevant referral authorities.
- How a proposal to vary the setbacks specified in this Schedule responds to the permit requirements outlined in Clause 3.0

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Appendix C Panel recommended version of the planning permit

DRAFT PLANNING PERMIT

GRANTED UNDER SECTION 96I OF THE
PLANNING AND ENVIRONMENT ACT 1987

Permit No.:

Planning scheme: Yarra Planning Scheme

Responsible authority: Yarra City Council

ADDRESS OF THE LAND: 462-482 SWAN STREET, RICHMOND

THE PERMIT ALLOWS:

Use and development of land for a mixed use development comprising 2 buildings (part 3-10 storey and part 3-12 storey) dwellings, a supermarket and retail [floorspace](#), offices, a gymnasium (with swimming pool) (permit required for dwellings and restricted recreation facility only), a reduction [in](#) the car parking requirement, buildings and works including alterations to access to a Road Zone (Category 1).

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the use and development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans by Elenberg Fraser received by Council on 4 April 2016 but modified to show:
 - (a) The second floor amended as per the sketch plan provided on 13 April 2016;
 - (b) ~~All retail tenancies to be labelled as shop~~ Confirmation that retail tenancies (2-4) are not to be used for market, trade supplies, landscape gardening supplies, manufacturing sales, more vehicle, boat or caravan sales or primary produce sales;
 - (c) Relocation of the southern fire escape on the ground floor;
 - (d) The eighth floor roof top garden with a void area above on the ninth floor;

Date issued:

Date permit comes into operation: Signature for the responsible authority:

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

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- (e) The tenth floor roof top garden with a void area above the eleventh floor;
- (f) A schedule of all materials and finishes including
 - (i) colours,
 - (ii) samples,
 - (iii) timber batten fins as a "class 1 durable timber" with profiles and non-corrosive fixings,
 - (iv) the painted concrete replaced with a finish that is integrated with the material examples of the application of the proposed bronze glazing in other buildings and
 - (v) details of the vine cables and fixings and how they will be attached;
- (g) The west-facing apartment within the internal corners of the eastern tower numbered correctly and to have its balcony relocated to the south of its current location;
- (h) The balcony of apartment -05 between the fourth and eleventh floors be re-located to have a southern and eastern dual aspect;
- (i) The balcony of apartment -05 between the fourth and eleventh floors re-located to have a southern and western dual aspect;
- (j) All balconies of two-bedroom dwellings with at least 8sqm in area and 1.6m in width with all balconies of one-bedroom dwellings to have a balcony of at least 1.6m in width;
- (k) A minimum 3m³ of storage per dwelling;
- (l) Additional overlooking fins provided to apartments -01 and -16 of the eastern and western towers between the fourth and seventh floors to prevent internal views to the abutting habitable room;
- (m) Additional overlooking fins provided to apartments -01 and -14 of the western tower on the fourth and seventh floor to prevent views to the abutting habitable room;
- (n) Operable windows to the western end of the residential corridors except for the corridor on level 1;
- (o) The long term parking 'zones' be clearly labelled on the floor plans;
- (p) The dimensions of the individual lanes and pedestrian refuge of the vehicle access out onto Swan Street;
- (q) A swept path for space No. 25 on the Lower Basement floor plan;
- (r) The correct number of car spaces annotated on floor plans;
- (s) All dimensions of ramp widths and grades;
- (t) The grade of the pedestrian path leading to the lobby of the Level 2A car park confirmed and to be DDA compliant;
- (u) Dimensions of clearances of spaces from abutting walls;
- (v) Four additional parallel bike spaces on the Swan Street footpath (to a total of eight spaces along Swan Street), positioned mid-block away from the Swan Street/Burnley Street intersection;
- (w) Eight additional parallel bike spaces on the Burnley Street footpath positioned mid-block away from the Swan Street/Burnley Street intersection;
- (x) No fewer than 337 bike spaces provided (279 for residents/staff, 42 on-site bike spaces, eight on the Swan Street footpath and eight on the Burnley Street footpath);
- (y) The bicycle parking bays must meet the dimension requirements at clause 52.34-4 of the Yarra Planning Scheme;
- (z) Bicycle parking signage to be provided in accordance with clause 52.34-5 of the Yarra Planning Scheme;
- (aa) The locations of the site access signals;
- (bb) The provision of a shopping trolley return area within the public car park;
- (cc) A widened area providing access to the travelator and lift in the public carpark;
- (dd) The provision of public art as outlined within Condition 2425.
- (ee) Any requirement of the Public Transport Victoria Conditions (Nos. 2834 to 44 48) (where relevant to show on plans);
- (ff) Any requirement of the VicRoads Conditions (Nos. 4945 to 4750) (where relevant to show on plans);
- (gg) Any requirement of the endorsed Sustainable Management Plan (condition 45) (where relevant to show on plans);

Date issued:	Date permit comes into operation:	Signature for the responsible authority:
	<p>(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)</p>	

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- (hh) Any requirement of the endorsed Waste Management Plan (condition ~~5~~6) (where relevant to show on plans);
 - (ii) Any requirement of the endorsed acoustic report (condition ~~8~~ 9) (where relevant to show on plans);
 - (jj) Any requirement of the endorsed wind report (condition ~~13~~14) (where relevant to show on plans); \
 - (kk) Additional swept path diagrams with regards to the B85 design vehicle passing the B99 design vehicle for the basement levels in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004;
 - (ll) On plan A201 provide an access from the Level 1 car park to the adjoining residential premises numbered 101-102;
 - (mm) On plan A201 and the relevant elevation, at the western end provide a (non-openable) window for natural daylight access to the lobby of Apartments 101-107;
 - (nn) Apartments 405, 505, 605, 705, 805, 905, 10.05 and 11.05 be shown as Type A2 Apartments
 - (oo) Apartments 301, 405, 505, 605, 705, 805, 905 and 10.05 be modified so as to enable eastern light into the living areas;
 - (pp) The apartments on the south western corner be modified so that a balcony or wintergarden is provided to that corner;
 - (qq) An electric vehicle charging station appropriately located.
2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Gymnasium Use~~3. No more than eight staff are permitted on the land at any one time.~~

3. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the hours of 5am and 11pm, seven days per week.

Sustainable Management Plan

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

Waste Management Plan

5. Before the plans are endorsed, an amended Waste Management Plan (WMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The plan must be generally in accordance with the WMP (prepared by Leigh Design dated 2 September 2015), but modified to include:
- (a) Internalising all waste collection via the basement
 - (b) Using a 6.4m truck (to allow clearance and access within the basement)
 - (c) Deletion of reference to trucks propping in Burnley Street.
6. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
7. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Acoustic report

8. Before the use and development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Acoustic Logic and provided to Council on 4 December 2015, but modified to include (or show, or address):
- (a) An assessment of the commercial noise including the loading dock) and vibration impacts (including sleep disturbance criteria) to the proposed dwellings within the development.

Date issued:	Date permit comes into operation:	Signature for the responsible authority:
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- (b) Rail vibration assessment to the current relevant standard (BS 6472) and using suitable equipment. The acoustic report must make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other requirement to the satisfaction of the Responsible Authority.
9. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Internal Landscape Plan

10. Before the use and development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by ERM and dated 15 April 2012, but modified to include (or show):
- Any relevant changes associated with Condition 1 of this permit;
 - The correct ground floor layout;
 - Landscaping proposed for the eighth and tenth floor communal rooftop gardens;
 - The type, location, quantity, height at maturity and botanical names of all proposed plants;
 - Soil media for the third floor landscaped area; and
 - The maintenance regime required during the contractor maintenance period.
11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - replacing any dead, diseased, dying or damaged plants,
- to the satisfaction of the Responsible Authority.
12. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible [Authority](#).

Wind

13. Before the use and development commences, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by ViPAC and dated 10 November 2015, but modified to include (or show):
- Additional mitigation features on the podium recreation area which achieves the criteria for standing [and](#) or sitting;
 - Quantification of wind conditions and if necessary, additional mitigation strategies to achieve target wind criteria.

Date issued:**Date permit comes into operation: Signature for the responsible authority:**

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

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Design Detail

14. Before the use and development commences, the owner of the site must submit detailed engineering and landscaping documentation to the satisfaction of the Responsible Authority and approved by the Responsible Authority and at the full cost of the owner showing the following:
- (a) Construction of a DDA compliant north-south orientated underpass ramp as shown on the Basement and Ground Floor plans received by Council on 4 April 2016. The ramp is to have a gradient of 1:14, be a total width of 2.85m (clear width of 2.65m) and be setback from the kerb by 1m. The ramp is to provide access from the underground tunnel link of Burnley Station (proposed ramp grade to match existing level of underground tunnel link to Burnley Station).
 - (b) Construction of a DDA compliant east-west orientated underpass ramp as shown on the Basement Floor plans received by Council on 4 April 2016. The ramp is to have a gradient of 1:14 with a total width of 3.5m. The ramp is to provide access from the underground tunnel link of Burnley Station to the existing east-west pedestrian path along the southern side of the subject site (proposed ramp grade to match existing level of underground tunnel link to Burnley Station).
 - (c) Construction of a DDA compliant north-south pedestrian access to the pedestrian plaza as shown on the Basement and Ground Floor plans received by Council on 4 April 2016. The ramp is to have a gradient of 1:20, have a minimum width of 2.2m, with a widening to 3.5m in width adjacent to the western entrance of the development (as shown on the Basement Floor Plan). The ramp is to provide access from the underground tunnel link of Burnley Station to the lobby of the development and the pedestrian plaza leading up to Burnley Street (proposed ramp grade to match existing level of underground tunnel link to Burnley Station).
 - (d) Provision of a 3.65m wide footpath along Burnley Street, with 1.73m being within title boundaries of the subject site.
 - (e) In conjunction with VicRoads, Provision of a footpath between 5m and 6m in width along Swan Street, with 2.5m of this being outside of the title boundaries of the subject site.
 - (f) Provision of a ground floor landscape plan which includes the landscaping proposed in the public realm areas and those associated with the Burnley Station improvements.
 - (g) Stormwater treatment and raingardens
 - (h) That the proposed fixing and material are appropriate for the locations given the requirement for durability, live loads and wind loads that are likely to arise.

Streetscape Masterplan

15. Before the use and development commences the applicant must prepare and develop an infrastructure and streetscape masterplan to the satisfaction of the responsible authority and the relevant authorities being in conjunction with Council, VicRoads, VicTrack, Public Transport Victoria and all relevant service authorities for capital improvements in the roads surrounding the development. The infrastructure and streetscape masterplan must be generally in accordance with the Endorsed Plans, The infrastructure and streetscape masterplan Plan must include, but is not limited to, the interface with the Burnley railway station, the mitigation works at the Burnley Street/Swan Street intersection, the improvement to the Burnley Street service road and the streetscape along Swan Street. The extent and scope of the works must be clearly defined before approval is granted by Council. All traffic mitigation works, road infrastructure works and streetscape works shall be funded by the applicant.

Timing of works

16. Before the building is occupied, all works to the public realm (including the extension of the pedestrian footpath within the subject site) as shown on the endorsed plans and within the Design Detail and

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Streetscape Master Plans (referred to in Conditions 15 and 16) must be fully constructed and completed by the owner to the satisfaction of the Responsible Authority.

17. Before the building is occupied, all works associated with the Burnley Station (including the underpass ramp and east-west pedestrian link to the south of the subject site) as shown on the endorsed plans and within the Streetscape Master Plan (referred to in Conditions 15 and 16) must be fully constructed and completed by the owner to the satisfaction of the Responsible Authority and VicTrack.

Section 173 Agreement (Public Realm Improvements)

18. Before the development starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, providing for the following:
- (a) The Owner must provide four bikes (within the total eight bike spaces) installed along the Swan Street footpath for a bike share operation;
 - (b) The Owner must provide unfettered 24 hour public access over that part of the land to be used for the new Swan and Burnley Street footpaths and the pedestrian plaza;
 - (c) The owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 19 (a) and 19(b) at the cost of the owners of the site and to the satisfaction of the Yarra City Council;
 - (d) The owner(s) must obtain and maintain insurance, approved by Yarra City Council, for the public liability and indemnify Yarra City Council against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in condition 19 (a) and 19(b).
19. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

Section 173 Agreement (Burnley Station Improvements)

20. Before the development starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority, VicTrack and Public Transport Victoria under section 173 of the *Planning and Environment Act 1987*, providing for the following:
- (a) The Owner must provide unfettered 24 hour public access over that part of the land to be used for the new east-west link (footpath), pedestrian plaza and the underpass ramp;
 - (b) The owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 21(a) at the cost of the owners of the site and to the satisfaction of the Yarra City Council, VicTrack and Public Transport Victoria;
 - (c) The owner(s) must obtain and maintain insurance, approved by Yarra City Council, VicTrack and Public Transport Victoria, for the public liability and indemnify Yarra City Council, VicTrack and Public Transport Victoria against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in condition 21(a).
21. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority, [Public Transport Victoria](#) and [VicTrack](#).

Section 173 Agreement (Affordable Housing)

<p>Date issued:</p>	<p>Date permit comes into operation:</p> <p>(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)</p>	<p>Signature for the responsible authority:</p>

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22. Before the development is occupied starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 which requires that the owner must facilitate the provision of affordable housing by:
- ~~to provide 5 percent of the total dwelling provision to be affordable housing in association with an accredited housing association~~
- (a) entering into an arrangement with a state government accredited housing association in respect of 5 percent of the total number of dwellings to be purchased or managed by that accredited housing association as affordable housing within the meaning of that affordable housing agency's remit to the satisfaction of the responsible authority; or.
- (b) making other arrangements for the provision of affordable housing in respect of the same number of dwellings to the satisfaction of the responsible authority.
23. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority

Public Art Management Plan

24. Before the building is occupied, a Public Art Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority after consulting with VicRoads. When approved, the Public Art Management Plan will be endorsed and will then form part of this permit. The Public Art Management Plan must include, but not be limited to:
- (a) Details of the commissioned artist(s);
- (b) Description of the proposed art work to a maximum of \$50,000, including:
- (i) Materials;
- (ii) Colours;
- (iii) Dimensions;
- (iv) Content;
- (v) Special features;
- (c) Details of the installation process; and
- (d) Details of art work maintenance schedule.
25. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the approved public art must be completed. Once completed, the public art must be maintained in accordance with the endorsed Public Art Management Plan to the satisfaction of the Responsible Authority.

Traffic Impact Analysis

26. Before the use and development commences, an amended Traffic Impact Analysis which is generally in accordance with the document supplied with the application but updated to reflect the following is to be provided assessing (to the satisfaction of the Responsible Authority):
- (a) Any requirement of the Public Transport Victoria Conditions in this permit (Nos. 31 to 48) (where relevant);
- (b) Any requirement of the VicRoads Conditions in this permit (Nos. 49 to 50) (where relevant);
- (c) 6.0 movements per 100m² for both peak periods for the supermarket traffic generation rate;
- (d) Whether it is necessary to remove the removal of first on-street car space on the south side of Swan Street, west of Burnley Street; and the two car parking spaces on the south side of Swan Street and east of those agreed to be removed as part of the development and east of the site.

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- (e) The width of the Burnley service road and the location of existing and future (where known) bus stops in the service road and how bus access and bus parking will interact with trucks accessing the loading bay; and
- (f) Loading arrangements including a Loading Management Plan for the operation of the supermarket loading dock.
- ~~(g) The retention of the three on-street car spaces to the east of the subject site on the southern side of Swan Street.~~

~~Within six months of the occupation of the development, an amended Traffic Impact Analysis to be provided to assess if the three spaces to the east of the subject site must be deleted for improved efficiency/capacity to the road network (to the satisfaction of the Responsible Authority).~~

External Landscape Plan

27. Before the use and development commences, an amended External Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by ERM and dated 15 April 2012, but modified to include (or show):
- (a) Any relevant changes associated with Condition 1 of this permit;
 - (b) The correct ground floor layout;
 - (c) Notes regarding maintenance.
 - (d) Design details for stormwater treatment and any rain gardens
 - (e) Tree species on the Swan St frontage consistent with existing replacement trees (*Lagerstoemia indica* x *L.fauriei* 'Natchez' (a white flowering Crepe Myrtle) at 12m spacings). These would be planted by Council, at the permit holder's expense.
 - (f) dwarf Lemon scented gum (*Corymbia citriodora*) at 6m spacings to be used as tree species along Burnley are suggested to be the dwarf Lemon scented gum (*Corymbia citriodora*) at 6m spacings.
 - (g) Final plant species details including a plant schedule, plant numbers and spacings, and specific plant locations.

The landscape planting associated with the External Landscape Plan (Condition 29) will be carried out by the Responsible Authority, at the permit holder's expense.

Public Transport Victoria Conditions ~~(Nos. 31 to 48)~~*Pre Construction*

28. Before the development starts, including demolition and bulk excavations or other time agreed to in writing with Public Transport Victoria, amended plans to the satisfaction of Public Transport Victoria must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. These plans must be generally in accordance with the plans submitted to Public Transport Victoria with the application but are to be modified to show:
- a) relocation of the fire access stairwell so that it does not rely on access to onto private property (Vic Track land) at the rear of the subject site property.
 - ~~b) self-enforcing "left-in-left-out" access only from Swan Street with associated signs.~~
 - b) provision for retention and consolidation if possible of the existing of-a bus stop and associated infrastructure within the Burnley Street underpass. and associated infrastructure
- all ~~all~~ to the satisfaction of Public Transport Victoria.

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29. The signal phasing and plans must incorporate tram priority measures including tram detector loops, car parking restrictions or any signal phasing alterations to the satisfaction of VicRoads and Public Transport Victoria. Prior to the operation of the new signals all works must be completed in accordance with the approved plans, at the full cost to the permit holder, to the satisfaction of VicRoads and Public Transport Victoria.
30. Prior to the commencement of works, detailed construction / engineering plans and computations for the works at Burnley Station shown on the endorsed plans must be submitted and approved by VicTrack and Public Transport Victoria. The Plans must detail all works proposed within the rail environment, including excavation of the site adjacent to the railway corridor and any impact on the rail reserve. The plans must ensure compliance regarding building clearances to aerial power lines as per the applicable Victorian Electrical Safety Regulations, to the satisfaction of Vic Track and Public Transport Victoria. The Construction Management Plan must also outline how traffic will be managed throughout the construction of the development and mitigate impacts to public transport, including trains and trams. All traffic management and mitigation costs will be at the full cost of the permit holder.
31. Unless otherwise agreed in writing with Public Transport Victoria, ~~before the commencement of works, a~~ Construction Management Plan must be submitted to Public Transport Victoria and Vic Track for approval. The Construction Management Plan must designate operating hours and include details of (but not be limited to) management proposals and actions to protect Vic Track assets, rail infrastructure and the operation of the public transport network during construction and must set out objectives, performance and monitoring requirements to the satisfaction of Vic Track & Public Transport Victoria.
32. Works undertaken within railway land must consider all standards and work practices for work within the railway corridor and conform to all relevant Australian standards including Victorian Rail Industry Operator Group (VRIOG) standards for any interface works and installation of underground utility services to the satisfaction of the Rail Operator and Public Transport Victoria.
- ~~Unless otherwise agreed in writing with Public Transport Victoria, before the commencement of works, a Traffic Management Plan must be submitted to Public Transport Victoria which outlines how traffic will be managed throughout the construction of the development and mitigate impacts to public transport, including trains and trams. The Traffic Management Plan must be prepared and implemented to the satisfaction of Public Transport Victoria. All traffic management and mitigation costs will be at the full cost of the permit holder.~~
33. Unless otherwise agreed in writing with Public Transport Victoria, before the development starts a landscape plan and schedule must be submitted to the satisfaction of VicTrack and Public Transport Victoria for the area of works within the rail corridor.
34. Unless otherwise agreed in writing with Public Transport Victoria, prior to construction commencing including demolition, a construction control and indemnity agreement as required by Public Transport Victoria must be in place to the satisfaction of Public Transport Victoria at the full cost to the permit holder.
- General Conditions*
- ~~Prior to the occupation of the development, all works outlined on the endorsed plans for the left in / left out access must be completed with associated signs, to the satisfaction of Public Transport Victoria at the full cost to the permit holder.~~
35. Prior to the occupation of the development, all works outlined on the endorsed plans for the signalised access must be completed with associated signs, to the satisfaction of Public Transport Victoria at the full cost to the permit holder.
36. Unless otherwise agreed in writing with VicTrack, permanent or temporary soil anchors must not be installed on railway land.
37. Prior to commencement of works, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.

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38. Any Rail Operator costs required to review documents or construction plan works within the rail environment must be met by the permit holder.
39. Any damage to public transport infrastructure as a consequence of the construction works must be rectified to the satisfaction of Public Transport Victoria, at the full cost of the permit holder.
40. The permit holder must take all reasonable steps to ensure that disruptions to train and tram operation are kept to a minimum during the construction of the development, and in compliance with the Rail and Tram Safety and Environmental requirements.
41. Building materials (including glass/window/ balcony treatments) likely to have an effect on train driver operations along the rail corridor must be non-reflective and avoid using red or green colour schemes, to the satisfaction of the Rail Operator.
42. No lighting is to be erected that throws light onto the railway tracks or which interferes with the visibility of signals and the rail lines by train drivers, to the satisfaction of the Rail Operator.
43. No drainage, effluent, waste, soil or other materials must enter or be directed to railway land or stored or deposited on railway land.
44. Any wall which may be permitted to be located on the railway reserve boundary must be cleaned and finished using a graffiti resistant finish, or alternative measures used to prevent or reduce the potential of graffiti, to the satisfaction of Public Transport Victoria and the Rail Operator.

~~Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operators Site Access Procedures and conditions.~~

VicRoads Conditions (Nos. 49 to 50)

45. Before the use approved by this permit commences the following roadworks on Swan Street, Richmond must be completed at no cost to and to the satisfaction of the Roads Corporation:
 - (a) Traffic signals at the Swan Street access.
 - (b) Removal of the existing car parking spaces along the Swan Street property frontage and installation of "No Stopping" signs.
 - (c) Removal of six (6) existing car parking spaces along the north side of Swan Street, west of Cutter Street, and the installation of "no Stopping" signs.
46. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to VicRoads prior to the occupation of the building hereby approved.
47. The development of the subject site is to be in accordance with the recommendations and conclusions of the Buffer Volume Constraints Review prepared by GHD dated 13 August 2015 as received by VicRoads and City Link on 18 August 2015.

EPA Conditions (Nos. 51 to 52)

48. Noise emissions from the premises must comply with the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
49. Noise emissions from the premises must comply with the requirements of the State Environment Protection Policy (Control of Music Noise From Public Premises) No. N-2.

Road Infrastructure

50. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
 - (a) in accordance with any requirements or conditions imposed by Council;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.
51. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

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52. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all building works and connections for underground utility services, the footpath immediately outside the property's Burnley and Swan Streets road frontages must be reconstructed (including kerb and channel):
- at the permit holder's cost; and
 - to the satisfaction of the Responsible Authority.
53. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority,
- the full width road pavement of the Burnley Street service road and
 - the half width pavement of Swan Street between the kerb and the tramway tracks immediately outside the site's frontages must be profiled and re-sheeted if damaged as a result of the development: -
- must be constructed and carried out
- at the permit holder's cost; and
 - to the satisfaction of the Responsible Authority and VicRoads.
54. Before the building is occupied any damage to Council infrastructure resulting from the development must be reinstated:
- at the permit holder's cost; and
 - to the satisfaction of the Responsible Authority.
55. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of the two electricity poles necessary to facilitate the development must be undertaken:
- in accordance with any requirements or conditions imposed by the relevant authority and Yarra Trams;
 - at the permit holder's cost; and
 - to the satisfaction of the Responsible Authority.
56. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, eight bike spaces must be installed on the Burnley Street footpath and eight on the Swan Street footpath:
- at the permit holder's cost; and
 - in a location and manner, to the satisfaction of the Responsible Authority.

Section 173 Agreement (Car Share Space Agreement)

57. Before the building is occupied, the owner must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 and apply to the Registrar of Titles to have the agreement registered on each of the titles to the land under Section 181 of the Act. Under the agreement, the owner must covenant with the Responsible Authority that provision will be made for a single car share vehicle space on-site by way of arrangement with a car share operator and/or the future Owners Corporation for a minimum period of 10 years. The agreement will reflect that any costs associated with ensuring ongoing availability of at least a single car share vehicle space on site will be borne by the owner. All costs of preparation, execution and registration of the agreement must be borne by the owner of the land, or the future Owners Corporation, including those costs incurred by the Responsible Authority.

Car parking

58. Before the use and development commences, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- the provision of electronic signage displaying the number of vacant car spaces available;

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- (b) signage and line marking plan of the various parking 'zones';
 - (c) the number and location of car parking spaces allocated to each tenancy;
 - (d) any tandem parking spaces allocated to a single tenancy;
 - (e) the number and location of car spaces for shared use, including time of shared use;
 - (f) the management of visitor car parking spaces and security arrangements for occupants of the development, including details on how residential visitors are to access car parking;
 - (g) details of way-finding, cleaning and security of end of trip bicycle facilities;
 - (h) policing arrangements and formal agreements;
 - (i) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc;
 - (j) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 6; and
 - (k) details regarding the management of loading and unloading of goods and materials.
59. The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
60. All small car parking spaces are to be signed as small car parking spaces.
61. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
 - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
 - (c) treated with an all-weather seal or some other durable surface; and
 - (d) line-marked or provided with some adequate means of showing the car parking spaces;
- to the satisfaction of the Responsible Authority.
62. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

~~Prior to the occupation of the supermarket, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987, providing for the following:~~

- ~~(e) — That only delivery trucks which have a maximum height of 3.8m and below may be used within the loading bay area of the development;~~

~~The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.~~

Green Travel Plan

63. Before the use and development commences, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to, the following:
- (a) describe the location in the context of alternative modes of transport;
 - (b) the provision of real time passenger information displays for nearby stops within each residential lobby;
 - (c) employee / resident welcome packs (e.g. provision of Met Cards/Myki);
 - (d) a designated 'manager' or 'champion' responsible for co-ordination and implementation;
 - (e) details of bicycle parking and bicycle routes;
 - (f) details of GTP funding and management responsibilities; and

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- (g) include provisions to be updated not less than every 5 years.
64. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Lighting

65. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a public lighting design scheme along the development's road frontages (including along the pedestrian link to Burnley Train Station) demonstrating adequate lighting levels for pedestrians as per Australian Standard requirements must be submitted to and approved by the Responsible Authority. Notations must confirm that the lighting scheme has been approved by CitiPower and all lighting infrastructure and hardware will be funded by the Permit Holder.
66. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances must be provided on the subject site. Lighting must be:
- (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity,
- to the satisfaction of the Responsible Authority.

General

67. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
68. As part of the implementation of the permitted development ongoing consultant team, Elenberg Fraser Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.
69. The amenity of the area must not be detrimentally affected by the use, including through:
- (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
70. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
71. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
72. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
73. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
74. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;

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- (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
- (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Construction Management

75. Before the use and development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) works necessary to protect road and other infrastructure;
~~remediation of any damage to road and other infrastructure;~~
 - (c) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
 - (d) facilities for vehicle washing, which must be located on the land;
 - (e) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
 - (f) site security;
 - (g) management of any environmental hazards including, but not limited to,:
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery;
 - (h) the construction program;
 - (i) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
 - (j) parking facilities for construction workers;
 - (k) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
 - (l) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
 - (m) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
 - (n) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
 - (o) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
 - (i) using lower noise work practice and equipment;
 - (ii) the suitability of the land for the use of an electric crane;
 - (iii) silencing all mechanical plant by the best practical means using current technology;
 - (iv) fitting pneumatic tools with an effective silencer;
 - (v) other relevant considerations; and
 - (p) any site-specific requirements.
- ~~and d~~ During the construction: [for the following matters:](#)

Date issued:

Date permit comes into operation: Signature for the responsible authority:

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

And upon completion, the following matter:

- (v) remediation of any damage to road and other infrastructure

Time expiry

76. This permit will expire if:

- (a) the development is not commenced within two years of the date of this permit; or
- (b) the development is not completed within four years of the date of this permit; or
- (c) the use has not commenced within five years of the date of this permit.

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

Notes:

The site is located within an Environmental Audit Overlay. Pursuant to Clause 45.03 of the Yarra Planning Scheme, the requirements of the Environmental Audit Overlay must be met prior to the commencement of development permitted under the permit.

A building permit maybe required before development is commenced. Please contact Council's Building Services on 9205 5095 to confirm.

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

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5585 for further information.

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

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

In accordance with the Yarra Planning Scheme, a 4.5 per cent public open space contribution will apply in the event of the subdivision of the land.

Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the Permit Holder's expense after seeking approval from the relevant authority and Yarra Trams.

VicRoads Notes:

Separate consent for works within the road reserve and the specifications of these works is required under the Road Management Act. For the purposes of this application the works will include provision of:

- traffic signals

Date issued:

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- no stopping signs and removal of on street car spaces along the Swan Street property frontage.

Separate consent will be required from VicRoads (the Roads Corporation) under the Road Management Act 2004 for buildings and works undertaken outside the title boundary within a Road Zone Category 1 (Swan Street and Burnley Street Overpass and associated embankment). Please contact VicRoads prior to commencing any works

The proposed development requires reinstatement of disused crossovers to kerb and channel. Separate approval under the Road Management Act 2004 for this activity may be required from VicRoads (the Roads Corporation). Please contact VicRoads prior to commencing any works.

Any change to the siting and height of buildings will require the views of the relevant authorities including City Link VicRoads and EPA.

PTV Note:

Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operators Site Access Procedures and conditions.

<p>Date issued:</p>	<p>Date permit comes into operation: (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)</p>	<p>Signature for the responsible authority:</p>

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IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit. The permit was granted by the Minister under section 96I of the **Planning and Environment Act 1987** on approval of Amendment No. C185 to the Yarra Planning Scheme.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
 2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
 3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
 4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
 5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.
-

WHAT ABOUT REVIEWS?

- In accordance with section 96M of the **Planning and Environment Act 1987**, the applicant may not apply to the Victorian Civil and Administrative Tribunal for a review of any condition in this permit.
-

Date issued:	Date permit comes into operation: (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	Signature for the responsible authority:

Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street

|||||
Maddocks

Date / / 2017

**Agreement under section 173
of the Planning and Environment Act 1987**

Subject Land: 462 - 482 Swan Street, Richmond

Purpose: Agreement for provision of affordable housing

Yarra City Council

and

) Pty Ltd
ACN ##

[7096693: 18507106_1]

Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street

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Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street

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Agreement under section 173 of the Planning and Environment Act 1987
Dated / / 2017

Parties

Name	Yarra City Council
Address	Town Hall, Bridge Road, Richmond, Victoria
Short name	Council
Name	## Pty Ltd
	ACN ##
Address	##
Short name	Owner

Background

- A. Council is the responsible authority for the Planning Scheme. Council is also the Planning Authority for Amendment C185 to the Planning Scheme.
- B. The Owner is the registered proprietor of the Subject Land or enters into this Agreement in contemplation of the Owner becoming registered as proprietor of the Subject Land.
- C. Amendment C185 proposes to rezone the Subject Land to a Commercial 1 Zone. The Owner has applied for a planning permit to use and develop the land for a mixed use development.
- D. As part of the rezoning of the Subject Land, the Owner has agreed to provide affordable housing.
- E. Council and the Owner enters into this Agreement to secure the Owner's obligation to provide the affordable housing.
- F. As at the date of this Agreement, the Subject Land is subject to a mortgage in favour of the Mortgagee. The Mortgagee consents to the Owner entering into this Agreement.

Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street

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The Parties agree:

1. Definitions

In this Agreement unless the context admits otherwise:

Act means the *Planning and Environment Act 1987*.

Accredited Housing Association means a housing agency which is registered as either a housing association or a housing provider under the Housing Act 1983 (Vic).

Affordable Housing means the provision of housing opportunities by an Accredited Housing Association within the meaning of that Accredited Housing Association's remit.

Agreement means this agreement and includes this Agreement as amended from time to time.

Amendment C185 means Amendment C185 to the Planning Scheme.

Approval Date means the date on which a notice of approval of Amendment C185 is published in the Government Gazette under section 36 of the Act.

Current Address means:

- for Council, the address shown on page one of this Agreement, or any other address listed on Council's website; and
- for the Owner, the address shown on page one of this Agreement or any other address provided by the Owner to Council for any purpose relating to the Subject Land.

Current Email means:

- the Council email address listed on Council's website; and
- for the Owner, any email address provided by the Owner to Council for the express purpose of electronic communication regarding this Agreement.

Development means the construction of a building or the carrying out of works on the Subject Land for dwellings or any mixed use development which includes dwellings.

Endorsed Plan means the plan endorsed with the stamp of Council from time to time as the plan which forms part of the Planning Permit.

GST Act means the *New Tax System (Goods and Services Tax) Act 1999* (Cwlth), as amended from time to time.

Mortgagee means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

Occupancy Permit means an occupancy permit in accordance with section 21(2) of the Building Act 1993.

Owner means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of the Subject Land and includes any Mortgagee-in-possession but does not mean the Owner of a Residential Lot.

Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street



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Party or Parties means the Parties to this Agreement but does not include a person who has transferred or otherwise disposed of all of their interests in the Subject Land.

Planning Permit means any planning permit issued or to be issued under the Planning Scheme which authorises the use or the development or the use and development of the Subject Land.

Planning Scheme means the Yarra Planning Scheme and any other planning scheme that applies to the Subject Land.

Schedule means a schedule to this Agreement.

Subject Land means the land described in Schedule 1 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

2. Interpretation

In this Agreement unless the context admits otherwise:

- 2.1 the singular includes the plural and vice versa;
- 2.2 a reference to a gender includes all genders;
- 2.3 a reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law;
- 2.4 any agreement, representation, warranty or indemnity by 2 or more persons (including where 2 or more persons are included in the same defined term) binds them jointly and severally;
- 2.5 a term used has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act, it has the meaning as defined in the Act;
- 2.6 a reference to an Act, regulation or the Planning Scheme includes any Act, regulation or amendment amending, consolidating or replacing the Act, regulation or Planning Scheme;
- 2.7 the Background forms part of this Agreement;
- 2.8 the Owner's obligations take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land; and
- 2.9 any reference to a clause, page, condition, attachment or term is a reference to a clause, page, condition, attachment or term of this Agreement.

3. Purposes of and reasons for this Agreement

The Parties acknowledge and agree that the purposes of and reasons for this Agreement are to:

- 3.1 require the Owner to provide Affordable Housing;
- 3.2 to record the terms and conditions on which the Affordable Housing is to be provided;

Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street



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- 3.3 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

draft

Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street



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4. Provision of Affordable Housing

The Owner covenants and agrees that before the issue of an Occupancy Permit under the Building Act 1993 in respect of any part of the Development, the Owner must provide Affordable Housing on the Subject Land by:

- 4.1 entering into an arrangement with an Accredited Housing Association in respect of 5 percent of the total number of dwellings which are constructed on the Subject Land whereby those dwellings are to be purchased or managed by that Accredited Housing Association as Affordable Housing to the satisfaction of the responsible authority; or
- 4.2 making other arrangements for the provision of Affordable Housing in respect of 5% of the total number of dwellings which are constructed on the Subject Land to the satisfaction of the responsible authority.

5. Further obligations of the Parties

5.1 Notice and registration

The Owner covenants and agrees that the Owner must bring this Agreement to the attention of all prospective occupiers, purchasers, lessees, licensees, mortgagees, chargees, transferees and assigns.

5.2 Further actions

The Owner covenants and agrees that the Owner:

- 5.2.1 must do all things necessary to give effect to this Agreement;
- 5.2.2 consents to Council applying to the Registrar of Titles to record this Agreement on the Certificate of Title of the Subject Land in accordance with section 181 of the Act; and
- 5.2.3 agrees to do all things necessary to enable Council to do so, including:
 - (a) sign any further agreement, acknowledgment or document; and
 - (b) obtain all necessary consents to enable the recording to be made.

5.3 Council's costs to be paid

The Owner covenants and agrees that the Owner must pay to Council within 14 days after a written request for payment, Council's reasonable costs and expenses (including legal expenses) relating to this Agreement, including:

- 5.3.1 drafting, finalising, signing, and recording this Agreement;
- 5.3.2 drafting, finalising and recording any amendment to this Agreement; and
- 5.3.3 drafting, finalising and recording any document to give effect to the ending of this Agreement.

Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street

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6. Agreement under section 173 of the Act

The Parties agree that without limiting or restricting the respective powers to enter into this Agreement, and insofar as it can be so treated, this Agreement is made as a deed in accordance with section 173 of the Act.

7. Owner's warranties

- 7.1 The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.
- 7.2 The Owner warrants that the Land Project is in an environmental condition such as to be suitable to be used and developed for the purpose for which it is intended to be used.

8. Successors in title

The Owner covenants and agrees that until such time as a memorandum of this Agreement is recorded on the certificate of titles of the Subject Land, the Owner must require successors in title to:

- 8.1 give effect to this Agreement; and
- 8.2 enter into a deed agreeing to be bound by the terms of this Agreement.

9. General matters**9.1 Notices**

A notice or other communication required or permitted to be served by a Party on another Party must be in writing and may be served:

- 9.1.1 personally on the other Party;
- 9.1.2 by leaving it at the other Party's Current Address;
- 9.1.3 by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or
- 9.1.4 by email to the other Party's Current Email.

9.2 No waiver

Any time or other indulgence granted by a Party to another Party or any judgment or order obtained by a Party against another Party does not amount to a waiver of any of the first Party's rights or remedies under this Agreement.

9.3 Severability

If a court, arbitrator, tribunal or other competent authority determines that any part of this Agreement is unenforceable, illegal or void then that part is severed with the other provisions of this Agreement remaining operative.

Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street


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9.4 No fettering of Council's powers

The Owner acknowledges and agrees that this Agreement does not fetter or restrict Council's power or discretion to make decisions or impose requirements or conditions in connection with the grant of planning approvals or certification of plans subdividing the Subject Land or relating to use or development of the Subject Land.

9.5 Inspection of documents

A copy of any planning permit, document or plan referred to in this Agreement is available for inspection at Council offices during normal business hours upon giving the Council reasonable notice.

9.6 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

9.7 Governing law

The Parties agree that this Agreement is governed by and is to be construed in accordance with the laws of Victoria.

10. GST

- 10.1 In this clause words that are defined in the GST Act have the same meaning as their definition in that Act.
- 10.2 Except as otherwise provided by this clause, all consideration payable under this Agreement in relation to any supply is exclusive of GST.
- 10.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 10.4 the recipient will pay to the supplier an amount equal to the GST payable on the supply at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement.
- 10.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 10.3.

11. Commencement of Agreement

This Agreement commences on the Approval Date.

12. Amendment of Agreement

- 12.1 This Agreement may be amended in accordance with the Act.
- 12.2 If notice of a proposal to amend this Agreement is required pursuant to section 178C of the Act, the parties agree that only Council and the Owner of the Subject Land or that part of the Subject Land that is the subject of the proposal to amend this Agreement are required to be notified of the proposal.

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13. Ending of Agreement

- 13.1 This Agreement ends:
- 13.1.1 when the Owner has complied with all of the Owner's obligations under this Agreement; or
 - 13.1.2 otherwise by agreement between the Parties in accordance with section 177 of the Act.
- 13.2 If notice of a proposal to end this Agreement is required pursuant to section 178C of the Act, the parties agree that only Council and the Owner of the Subject Land or that part of the Subject Land that is the subject of the proposal to end this Agreement are required to be notified of the proposal.
- 13.3 Once this Agreement ends as to part of the Subject Land, Council will, within a reasonable time following a request from the Owner and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under section 183(1) of the Act to cancel the recording of this Agreement on the register as to that part of the Subject Land.
- 13.4 On completion of all the Owner's obligations under this Agreement, Council must as soon as practicable following the ending of this Agreement and at the Owner's request and at the Owner's cost, execute all documents necessary to make application to the Registrar of Titles under section 183(1) of the Act to cancel the recording of this Agreement on the register.



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Schedule 1

Subject Land means the land at 462 – 482 Swan Street Richmond and more particularly being the land contained in the following Certificate of Titles:

- Volume ### Folio ###
- Volume ### Folio ###
- Volume ### Folio ###
- Volume ### Folio ###
- Volume ### Folio ###
- Volume ### Folio ###

Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street

|||||
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Signing Page

Signed, sealed and delivered as a deed by the Parties.

Signed, Sealed and Delivered for and on behalf,
and with the authority, of the **Yarra City Council** by
the member of Council staff occupying the position or
title of or acting in the position of Chief Executive
Officer in the presence of:

.....

Witness

Sealing clause Owner

[7096693: 18507106_1]

Attachment 7 - Draft Section 173 Agreement for 462 - 482 Swan Street

|||||
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Mortgagee's Consent

as Mortgagee under instrument of mortgage no. ## consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

.....

draft

11.3 Proposed Discontinuance of Road abutting the rear of 203-205 Fitzroy Street, Fitzroy

Trim Record Number: D17/14188

Responsible Officer: Chief Financial Officer

Purpose

1. This report seeks Council's authority pursuant to the *Local Government Act 1989* (**Act**) to discontinue the road abutting the rear of 203-205 Fitzroy Street, Fitzroy, being part of the land contained in Memorial Book R No. 242 (**Road**).

Background

2. The Road is shown as Lot 1 on the title plan attached as Attachment 1 to this report (**Title Plan**) and shown hatched on the plan attached as Attachment 2 to this report (**Site Plan**).
3. The Applicant (**Owner**) is the registered proprietor of the property known as 203-205 Fitzroy Street, Fitzroy, shown outlined red on the Site Plan, being the land contained in certificate of title volume 9885 folio 838 (**Owner's Property**).
4. The Road abuts the rear of the Owner's Property and is not currently fenced into the Owner's property.
5. The Owner has requested that Council discontinue the Road and sell the discontinued Road to the Owner (**Proposal**).
6. The Owner 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 sale of the discontinued Road.

Discussion

Road

7. The Road is known as a 'road'. The Road is therefore a 'road' for the purposes of the Act which Council has the power to consider discontinuing.
8. On being discontinued the Road will vest in Council.

Adjoining Properties

9. The Owner was requested to seek written consent of owners' of the following properties that abut the Road:
 - (a) 201 Fitzroy Street, Fitzroy;
 - (b) 207 Fitzroy Street, Fitzroy; and
 - (c) 40 Hanover Street, Fitzroy.
10. It is unclear from the response received from the owner of the property at 201 Fitzroy Street, Fitzroy on 31 July 2016 whether its consent has been given to the Proposal. The response is attached as Attachment 3 to this report. It is anticipated that clarification will be forthcoming as part of the public notice process.
11. At the date of this report, no response has been received from the owner of the properties at 207 Fitzroy Street and 40 Hanover Street.
12. The owners of the adjoining properties will be given a copy of the public notice issued in respect of this matter.

Site Inspection

13. A site inspection of the Road was conducted by DML Land Surveys, on 16 November 2016. The site inspection report notes that:
 - (a) the Road is constructed of bluestone;
 - (b) the road is currently used for vehicular access;
 - (c) the Road is currently used exclusively for rear access to Little Hanover Street by the property at 203-205 Fitzroy Street; and
 - (d) part of the brick building at 40 Hanover Street encroaches onto the north-western boundary of the Road.
14. A copy of the site inspection report is attached as Attachment 4 to this report.

Public Authorities

15. The following statutory authorities have been advised of the proposed road discontinuance and have been asked to respond if they have any existing assets in the Road which should be saved under section 207C of the Act: City West Water, Melbourne Water, Citi Power, APA Group, Telstra, Optus Communications; and Yarra City Council.
16. Melbourne Water, Citi Power, APA Group, Telstra, Optus and Yarra City Council have advised that they have no assets in or above the Road and no objection to the Proposal.
17. City West Water (**CWW**) has advised that it has a sewer asset in the Road and will require an easement in Favour of City West Water to be created over the Road. Copies of the correspondence from City West Water are attached as Attachment 5 to this report.

Public Notice

18. Before proceeding with the discontinuance of the Road, 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.
19. 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 or the Committee which has delegated authority to hear those submissions, giving reasonable notice of the day, time and place of the meeting.
20. 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.

Internal Consultation (One Yarra)

21. Nil

Financial Implications

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

Economic Implications

24. Nil

Sustainability Implications

25. Nil

Social Implications

26. Nil

Human Rights Implications

27. Nil

Communications with CALD Communities Implications

28. All notices and correspondence issued with respect of this report will contain referral information to Yarralink Interpreter Service.

Council Plan, Strategy and Policy Implications

29. Nil

Legal Implications

30. If the Road is discontinued and sold to the Owner, Council will require;
- (a) the Owner to consolidate the title to the former Road with the title to the Owner's Property within 6 months of the date of the transfer of the Road to the Owner, at the Owner's expense; and
 - (b) agree to observe City West Water's conditions in respect of the road.

Other Issues

31. Nil

Options

32. Nil

Proposal

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 abutting the rear of 203-205 Fitzroy Street, Fitzroy and transferred to the Owner.

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 the rear of 203-205 Fitzroy Street, Fitzroy which is shown marked 'Lot1' 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, The Age and Council's social media.
 - (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 market value (plus GST); and
 - (d) authorises Council's 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.
2. Further should no submissions be received, Council:
 - (a) resolves that, having followed all the required statutory procedures pursuant to sections 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 is to be published in the *Victoria Government Gazette*;
 - (c) directs that, once discontinued, the Road be transferred to the Owner for no less than the market value (plus GST) as determined by the Act;
 - (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 Owner; and
 - (e) that any easement, rights or interests required to be created or saved over the Road by any authority be done so and not be affected by the discontinuance and sale.

CONTACT OFFICER: Bill Graham
TITLE: Coordinator Valuations
TEL: 9205 5270

Attachments

- 1 Title Plan
- 2 Site Plan
- 3 Adjoining Owner Response
- 4 Site Inspection Report
- 5 CWW response

Attachment 1 - Title Plan

TITLE PLAN		EDITION 1		TP																	
Location of Land Parish: JIKA JIKA Township: - Section: - Crown Allotment: - Crown Portion: 70 (PART) Last Plan Reference: Part of Road shown in Memorial Book R No.242				Notations DEPTH LIMITATION DOES NOT APPLY																	
Easement Information <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="5" style="text-align: left; padding: 2px;">LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)</th> </tr> <tr> <th style="width: 15%; padding: 2px;">Easement Reference</th> <th style="width: 30%; padding: 2px;">Purpose</th> <th style="width: 10%; padding: 2px;">Width (Metres)</th> <th style="width: 20%; padding: 2px;">Origin</th> <th style="width: 25%; padding: 2px;">Land Benefited/in Favour of</th> </tr> <tr> <td style="text-align: center; padding: 2px;">E-1</td> <td style="text-align: center; padding: 2px;">SEWERAGE</td> <td style="text-align: center; padding: 2px;">2m</td> <td style="text-align: center; padding: 2px;">THIS PLAN</td> <td style="text-align: center; padding: 2px;">CITY WEST WATER</td> </tr> </table>					LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)					Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/in Favour of	E-1	SEWERAGE	2m	THIS PLAN	CITY WEST WATER	THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY. Checked by: Assistant Registrar of Titles Date	
LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)																					
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/in Favour of																	
E-1	SEWERAGE	2m	THIS PLAN	CITY WEST WATER																	

LITTLE HANOVER STREET

REF: 2016-219 Title Plan

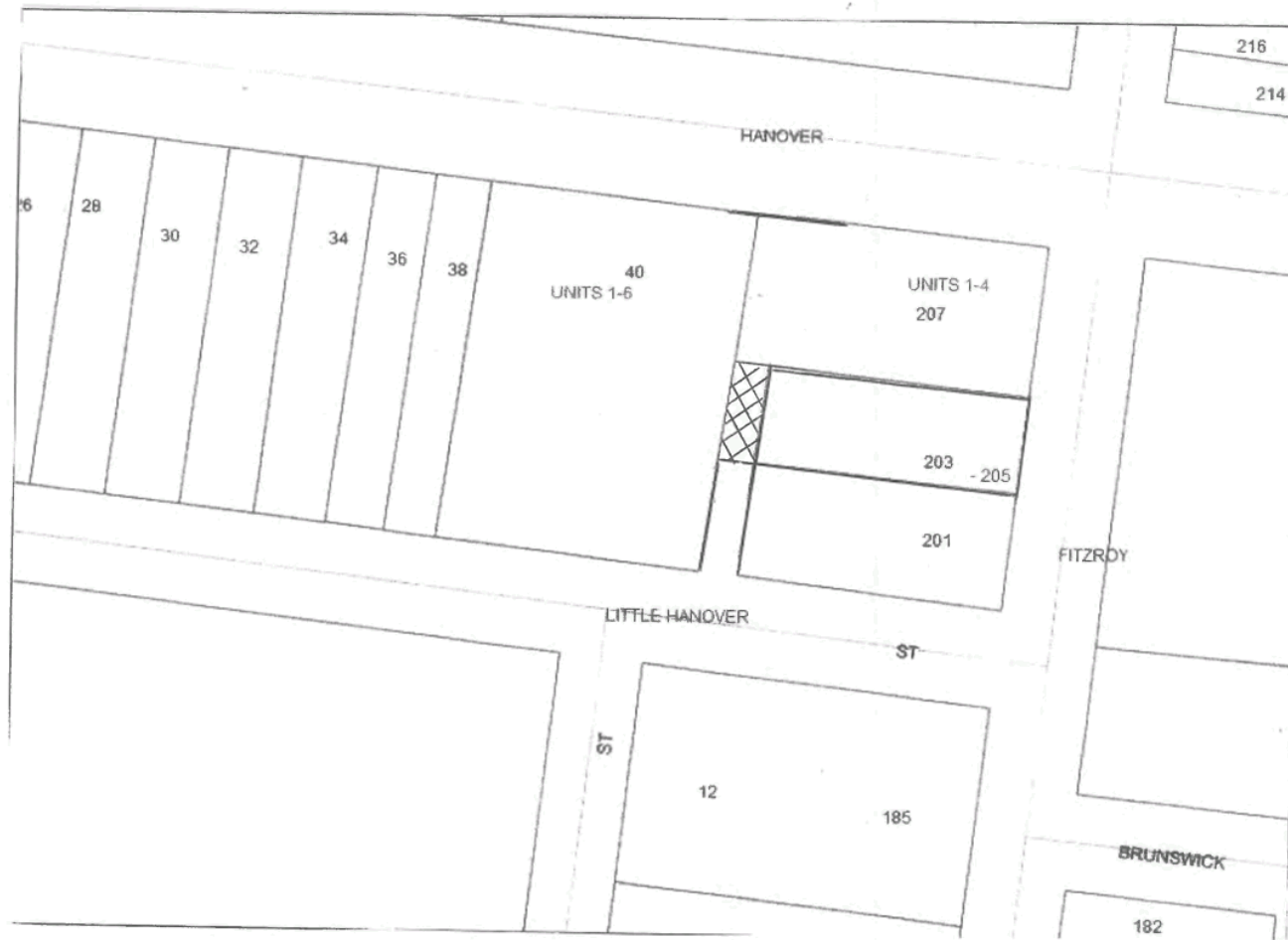
FITZROY STREET

ORIGINAL
 SCALE 1:150 SHEET SIZE A4

DML LAND SURVEYS

 PO Box 136, Lower Plenty 3093
 E: enquiries@dmlsurveys.com.au
 www.dmlsurveys.com.au
 P: 0422 741 385
 ABN 61 742 874 124 AFR 100 100 100

Attachment 2 - Site Plan



Attachment 3 - Adjoining Owner Response

redacted

-31st July 2016

redacted

Re: Laneway at rear of 203 – 205 Fitzroy Street, Fitzroy

I am the owner of 203-205 Fitzroy Street and am proposing to purchase the part of the laneway immediately behind my property. See the diagram below, the area shown in yellow is the part I am proposing to purchase from the council.



This part of the laneway is open to the public, and often littered with used syringes. Myself and my tenants are the only people that use this part of the laneway as it is the dead-end of a laneway that we use to access my property. And we would like it to be safe. See photographs below showing rubbish and syringes:



Attachment 3 - Adjoining Owner Response

redacted

The lawyers acting on behalf of the local council (Maddocks Lawyers 140 William Street Melbourne Victoria 3000 Australia) have instructed me to send a letter to you notifying you of my request. Importantly they ask that you respond in writing to me consenting to this proposal. See instructions from Maddocks Lawyers at the bottom of this letter.

Below is a simple proposed way to communicate your consent. Would it be possible for you to sign this and return it to me? Or if you prefer write a letter that reflects your wishes.

I, redacted, owner of redacted, consent to the discontinuance of the road immediately behind 203 – 205 Fitzroy Street, Fitzroy. And I consent that this road may be transferred to redacted the owner of 203-205 Fitzroy Street, Fitzroy.

Signed:

redacted

Date

Many thanks

redacted

For your reference below is an excerpt from a letter from Maddocks Lawyers instructing me to write to neighbours about this proposal:

"The Council must also be provided with written evidence that the following property owners' consent to the proposal to discontinue the Road and transfer the discontinued Road to you:

- redacted Fitzroy being the owner of that address; and
- Department of Health and Human Services of GPO Box 4057, Melbourne, being the owner of 207 Fitzroy Street and 40 Hanover Street, Fitzroy.

Please write to these adjoining owners and provide us with any correspondence received in response. If any of the adjoining owners' consent has not been provided within three weeks, please advise us accordingly and provide us with a copy of your correspondence to the adjoining owners."

Attachment 3 - Adjoining Owner Response

03831180e2214bca8a95eb99a38726c3
From: redacted
redacted
Sent: Tuesday, 9 August 2016 10:07 AM
To: redacted
Subject: Rear 203 Fitzroy Street;
Attachments: Email from Bill Graham.docx

redacted

Attached is an email from Bill Graham from the City of Yarra.

It is obvious from the Council email that this matter re the purchase of the laneway is far more complex and involved than first thought. Having the same rights as you have to purchase the laneway at the rear of my property would take away the access to the rear of your property. I am sure this is the not the outcome you expect. No doubt you would not want to lose the rear access to your property, therefore I assume you would object to me putting in an application to purchase the laneway at the rear of my property.

I am prepared to discuss this matter with you further.

Yours sincerely,

redacted

Attachment 3 - Adjoining Owner Response

redacted

Roads are discontinued pursuant to the requirements of Local Government Act 1989. Unfortunately I cannot comment on advice from the former City of Fitzroy.

Council has the power to discontinue a road if it deems it unnecessary. Council is required to have public consultation regarding the proposal and hear any submissions lodged regarding the proposal. The Department of Health and Human Services DHHS (formerly DHS) may lodge a submission and object however Council has to hear the submission only. Council then decides **to or not to** discontinue if it wishes even if there are objections. Part of the discontinuance process is to ascertain if there are any easements in the road that need to be protected. City West Water may object to the discontinuance because of the easement or they may agree and seek a sewerage easement in their favour. The easement outcome is determined as part of the process. My records show that the road did not continue through to Hanover Street. I have attached a survey plan dated July 1967.

Applicants have to pay the legal costs associated with the discontinuance plus the market value of the land. I am happy for you to apply to purchase the road portion at the rear of your property. The portion of road behind your property is approximately 40 square metres therefore the purchase would not be a cheap exercise.

I suggest that you contact redacted you could be joint applicants which would mean that you could share the costs.

Please feel free to contact me on 9205 5270 if you would like to discuss this email in further detail.
Regards
Bill Graham

William J. Graham CPV AAPI
Valuations Co-ordinator
Yarra City Council PO Box 168 Richmond 3121
T (03) 9205 5270 F (03) 8417 6666
E Bill.Graham@yarracity.vic.gov.au
W www.yarracity.vic.gov.au

Attachment 4 - Site Inspection Report



Maddocks

Ref: MAN:LWG:6892592

Maddocks
Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
MELBOURNE 3008

Yarra City Council
Proposed discontinuance of road rear 203-205 Fitzroy Street, Fitzroy

DATE OF INSPECTION: 16/11/2016

PHOTOGRAPHS OF THE ROAD: Attached at end of this report

IS THE ROAD OPEN AND AVAILABLE FOR USE BY THE PUBLIC? Yes ☒ No ☐

WHAT OBSTRUCTIONS ARE OVER OR IN THE ROAD?

Fencing	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Vegetation*	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Rubbish	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Services**	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Other*	<input type="checkbox"/> Yes	<input type="checkbox"/> No	(* Including fire hydrants/plugs.)		

* Provide Details:

The subject area of Road is currently used exclusively for rear access to Little Hanover Street by the property at No.203-205 Fitzroy Street. The Road is old general law land currently not under the operation of the Transfer of Land Act.

THE MATERIAL WITH WHICH THE ROAD IS CONSTRUCTED:

<input type="checkbox"/> Nil	<input type="checkbox"/> Bitumen
<input checked="" type="checkbox"/> Bluestone	<input type="checkbox"/> Other _____

EVIDENCE OF THE ROAD BEING USED:

<input type="checkbox"/> Nil	<input checked="" type="checkbox"/> Gates opening onto the road
<input type="checkbox"/> Tyre marks	<input checked="" type="checkbox"/> Garages opening onto the road
<input type="checkbox"/> Worn grass	<input type="checkbox"/> Other _____

TYPE OF TRAFFIC:

<input type="checkbox"/> Pedestrian	<input checked="" type="checkbox"/> Vehicular	<input type="checkbox"/> Animal	<input type="checkbox"/> Nil
-------------------------------------	---	---------------------------------	------------------------------

WHAT IS THE ROAD PROVIDING ACCESS TO?

<input checked="" type="checkbox"/> Adjoining properties @	<input type="checkbox"/> Reserve/Park
<input type="checkbox"/> Main Road	<input type="checkbox"/> Shops
<input type="checkbox"/> Other	

The subject Road is currently used exclusively for rear access to Little Hanover Street by the property at No.203-205 Fitzroy Street.

[6892592: 17808890_1]

Attachment 4 - Site Inspection Report



Maddocks

@ Specify which properties

The property at No.203-205 Fitzroy Street.

DETAILS OF OTHER SUITABLE MEANS OF ACCESS NEARBY.

The property at No.203-205 Fitzroy Street has direct access and frontage to Fitzroy Street.

DETAILS OF FENCES, BUILDINGS AND/OR LANDSCAPING PLACED ON OR OVER ANY PORTION OF THE ROAD BY ABUTTING PROPERTY OWNERS, AND THE EXTENT OF SUCH ENCROACHMENT.

There exists some minor encroachment into the subject area of Road at the North West corner by the old brick Laundry building on the abutting Western property. The encroachment is only minor, being 0.05m at both ends of the building and whilst this should be noted but cause no real concern.

IS THE ROAD REQUIRED FOR PUBLIC ACCESS?

Yes

☐ No



OTHER OBSERVATIONS:

Signed: Dean Loney (Surveyors Board of Vic. Reg. No.1927) Date: 26/11/2016

Title/Position: Licensed Land Surveyor

Company: DML Land Surveys Pty Ltd.

ATTACH ADDITIONAL PAGES IF THERE IS NOT ENOUGH SPACE ON THIS FORM

[6892592: 17808890_1]

Attachment 4 - Site Inspection Report



PO Box 136, Lower Plenty 3093
E: enquiries@dmlsurveys.com.au
www.dmlsurveys.com.au
M: 0422 741 385
ABN 65 580 850 590 ACN 140 149 688

AERIAL PHOTO & PHOTO POSITIONS



SUBJECT ROAD FOR PROPOSED DISCONTINUANCE IS SHOWN WITH PINK HATCHING ON ABOVE AERIAL PHOTO. NUMBERED PHOTO POSITIONS SHOWN IN GREEN.

Attachment 4 - Site Inspection Report

PHOTO 1



Attachment 4 - Site Inspection Report

PHOTO 2



Attachment 5 - CWW response



City West Water™

20 September 2016

MARINE NINCEVIC
MADDOCKS
LEVEL 25, 727 COLLINS STREET
MELBOURNE VIC 3008

Dear Marine,

Re: PROPOSED ROAD DISCONTINUANCE
Location: REAR 203-205 FITZROY STREET, FITZROY
CWW Reference: 16/384

City West Water Corporation
ABN: 70 066 902 467
1 McNab Avenue
Footscray Vic 3011 Australia
Locked Bag 350 Sunshine Vic 3020
DX 30311 Sunshine
citywestwater.com.au
Telephone (03) 9313 8422
Facsimile (03) 9313 8417

I refer to your email received by City West Water (CWW) regarding the proposed Road Discontinuance at the above location and request for comment from CWW. Enclosed for your information are copies of CWW's requirements for working in the vicinity of water and sewer assets and a plan of the general area.

As you will see on the plan provided, the parcel of land proposed for Discontinuance contains an existing CWW sewer main. It is with respect to this asset that CWW currently objects to this proposal subject to the following:

1. A certified Title Plan must show a 2.0m wide Sewerage Easement centrally located over the sewer main in favour of CWW pursuant to Section 12(1) of the Subdivision Act. This plan must then be referred to CWW for consideration prior to offering a withdrawal of objection.
2. Any proposed fences must be located a minimum distance of 800mm clear of the centreline of existing CWW sewer mains.
3. Any proposed fence lines must be located a minimum distance of 1.0m from sewer manholes and/or sewer inspection shafts.
4. Any proposal to build over CWW assets will require CWW's written consent (i.e. Build-Over Application approval).

Naturally, extreme care must be taken when working in the vicinity of CWW assets and CWW will seek cost recovery for any damage caused to its assets that can be attributed to your works.

If you have any questions, please do not hesitate to contact me on 0407 528 605.

Yours faithfully,

Mark Abraham
Technical Officer, Other Authorities Works

Attachment 5 - CWW response



City West Water™

QES Management System
Issue Date: 01/10/2015

Protection of City West Water's Water and Sewer Assets Other Authorities Works

Important Information

This document has been provided by City West Water (CWW) as a reference for standard conditions and requirements when working in close proximity to CWW's existing water and sewer assets.

1. The assets referred to in this document are water and sewer assets owned and/or controlled by CWW. Please note that some assets shown on plans provided by CWW may belong to Melbourne Water, South East Water and Yarra Valley Water.
2. Due to the nature, depth and age of CWW's assets and records, it is impossible to ascertain the exact location of all underground assets. CWW does not guarantee and makes no representation or warranty as to the accuracy or scale of information provided.
3. If asset relocation or protection works are undertaken by CWW as part of the required solution, payment for the cost of this work shall be borne by the principal developer, council, client or contractor requiring these works.
4. Unless otherwise stated in this document, all water and sewerage works must be carried out in accordance with the most recent versions of the Water and Sewerage Codes of Australia (MRWA Editions).

Duty to Avoid Damage

1. It is the responsibility of the owner and any consultant engaged by the owner (including, but not limited to; architect, building surveyor, consulting engineer, contractor and the developer) to ensure that all CWW's underground assets are protected from the impact of any works.
2. It is the responsibility of the owner or person/s constructing the works to:
 - a) obtain 'Dial Before You Dig' plans showing CWW's assets in the vicinity of the proposed works no more than 30 days prior to commencement of works
 - b) locate all underground assets that may be damaged or interfered with by the proposed works via non-destructive or hand excavation prior to commencement of works
 - c) contact CWW's Other Authorities Works (OAW) department via email at oaw@citywestwater.com.au if any of CWW's assets will be affected or interfered with in any way by the proposed works
3. If any damage is caused to CWW's assets as a result of works, or if any of CWW's assets are interfered with (including being built over, buried, altered or if any cover or support is removed) without CWW's consent, CWW will seek recovery for the costs of repairing such damage or interference.
4. There are statutory offences under the Water Act 1989 and the Road Management Act 2004 for damaging or interfering with CWW's assets and for building over or removing cover or support of CWW's assets without prior written consent. In the event that damage is caused to CWW's assets, please contact Faults & Emergencies on 131 642.

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Rev 4

Page 1/2

Attachment 5 - CWW response



City West Water™

QES Management System
Issue Date: 01/10/2015

Standard Work Conditions & Requirements

1. When undertaking works in the vicinity of CWW's underground assets, the minimum clearances and cover in the table below must be maintained at all times:

Clearance	Conditions	
150mm	Water main ≤ DN375 Sewer main (any size)	Vertical clearance when crossing an asset
500mm	Water main > DN375	
300mm	Water main < DN225	Horizontal clearance when running beside an asset
600mm	Water main ≥ DN225 Sewer main (any size)	
600mm	Water and sewer	Depth of cover when operating hand-operated vibrating equipment (e.g. jackhammers/vibrating plates)
1000mm	Water main	Depth of cover when operating mechanical excavators and vibrating equipment (e.g. sheep's-foot roller)
1500mm	Sewer main	
300mm	Clearance from any proposed back of kerb to the outer wall of CWW asset. Refer to note 4 below.	
Minimum cover over assets		
1200mm	VicRoads roadways (assessed on an individual basis)	
750mm	Major roadways (assessed on an individual basis)	
600mm	Sealed roadways	
450/600mm	Nature strip, reserve (Residential/Commercial)	

IMPORTANT: CWW's OAW department must be contacted via email at least 14 days prior to any works in the vicinity of water mains 300mm or greater in diameter as additional work conditions may apply.

- All new and existing covers on surface fittings (e.g. manholes, valves, hydrants, etc...) must match the proposed finished surface level.
- No hydrants are to be located in road pavements without prior written approval from CWW. Hydrants must be converted below ground and relocated clear of the roadway.
- No water main which is currently located in a nature/median strip is to be relocated underneath any pavement without prior written approval from CWW.
- All water and sewerage works must be undertaken by CWW or CWW accredited consultants and contractors listed at: www.citywestwater.com.au. All CWW procedures and relevant applications remain applicable.
- Should any of CWW's assets be exposed during the course of the works, 150mm of embedment material similar to existing (unless otherwise specified by CWW) must be placed around the pipe and the trench backfilled and compacted in accordance with requirements relating to asset location.
- CWW has a target for planned water supply interruptions to be completed in less than **150 minutes**. It is the expectation of CWW that consultants and contractors will assist in decreasing the disruption times and thus reduce the impact of works.

NOTE: If you feel that any of these requirements cannot be met, please contact CWW's OAW department via email for advice on how best to resolve the situation.

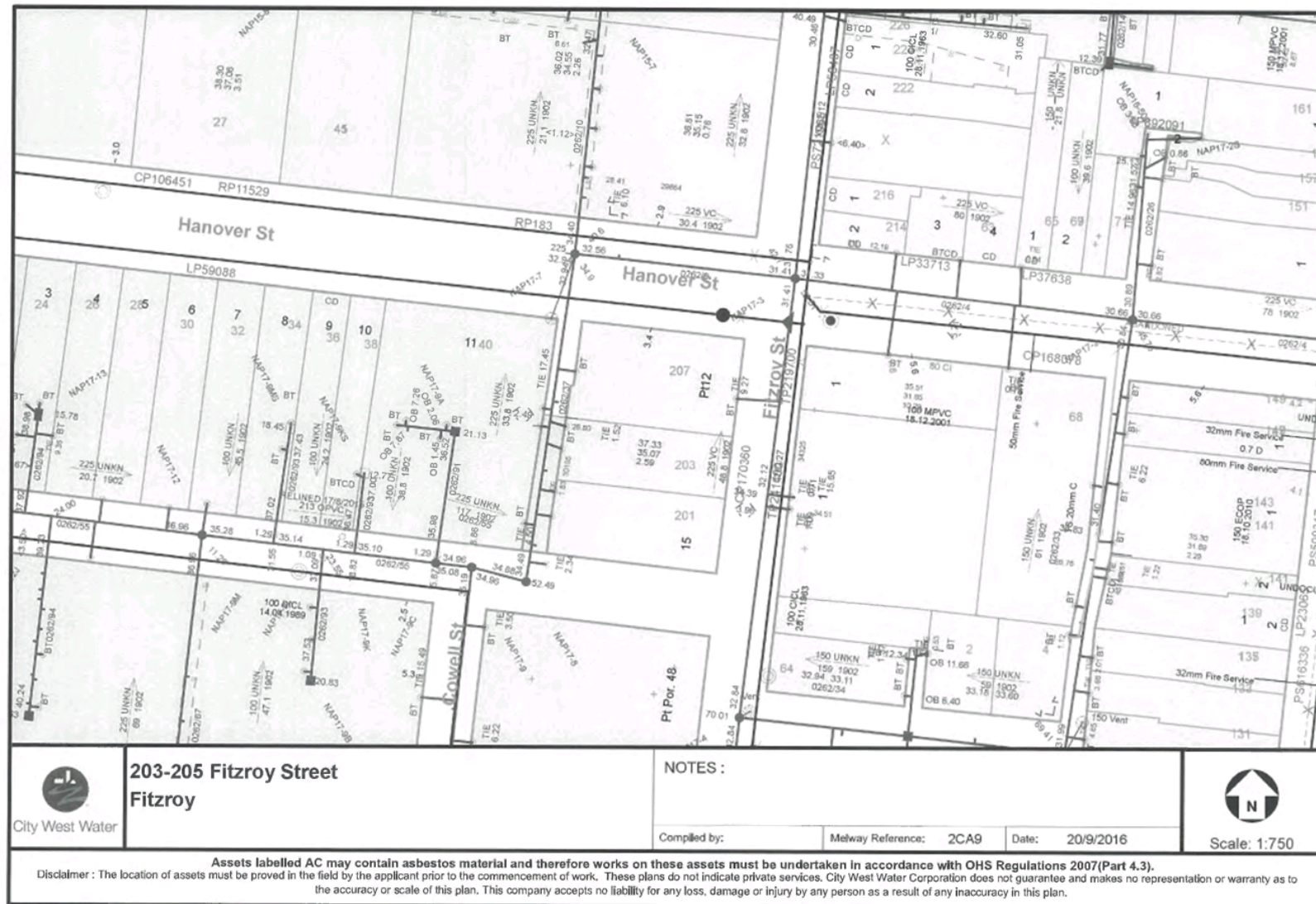
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Attachment 5 - CWW response



**11.4 Neighbourhood Houses and Learning Centres Partnerships Strategy 2014 - 2017
Annual Progress Report**

Executive Summary

Purpose

To provide the annual progress report for the Neighbourhood Houses and Learning Centres Partnerships Strategy and Action Plan 2014 – 2017 and seek endorsement of the third year action plan.

Key Issues

The Partnerships Strategy and Action Plan defines a shared vision for Council and the Houses, where collaboration, trust and flexibility can achieve resilient and empowered communities in a changing environment.

All houses are consolidating their strengths to address the changing political, financial and demographic impacts and developing new strategies and seeking new opportunities and partnerships to respond to the changes in positive and creative ways.

In moving forward the Yarra Neighbourhood House Network continues to seek collaborative projects, develop a core message to promote neighbourhood houses, their purpose, value and community benefit to a new demographic and engage more actively in resource sharing.

Financial Implications

There are no financial implications from the annual progress report of the Partnerships Strategy and Action Plan. In 2016/17 Council allocated \$663,987 to Yarra's 9 Neighbourhood Houses and Learning Centres through the Neighbourhood House Funding Program. The funding is based on the model that was adopted by Council in February 2012 and reviewed in October 2015.

PROPOSAL

That Council:

- (a) note the progress report for 2016 of the Neighbourhood Houses and Learning Centres Partnerships Strategy and Action Plan 2014 – 2017; and
- (b) endorse the Neighbourhood Houses and Learning Centres Partnerships Strategy and Third Year Action Plan.

11.4 Neighbourhood Houses and Learning Centres Partnerships Strategy 2014 - 2017 Annual Progress Report

Trim Record Number: D16/176781

Responsible Officer: Community Partnerships Unit Manager

Purpose

1. To provide the annual progress report for the Neighbourhood Houses and Learning Centres Partnerships Strategy and Action Plan 2014 – 2017 and seek endorsement of the third year action plan.

Background

2. Neighbourhood houses play a vital role in building vibrant local communities. They are important places of inclusion and provide valuable social, recreational, educational and training opportunities that enable people to achieve their potential. They connect people in local communities through the vast volunteering opportunities they provide and the wide range of activities on offer.
3. The Victoria government provides recurrent funding to Neighbourhood Houses in accordance with Victorian Government priorities through the Neighbourhood House Coordination Program (NHCP) “to support the coordination of a service that provides community development activities consistent with the aims of the Neighbourhood House Coordination Program”. (*Neighbourhood House Coordination Program Guidelines 2016–2019 and sector information*). Other sources of income include the Department of Education and Early Childhood Development, Local Government, the Federal Government, and funds generated by Neighbourhood Houses themselves.
4. Neighbourhood houses are funded through the Department of Health and Human Services to support the provision of community development programs and activities that lead to community strengthening outcomes by:
 - (a) supporting diversity and promoting community participation and inclusion;
 - (b) facilitating community development and capacity building in support of individuals and groups within communities;
 - (c) supporting lifelong learning opportunities for people to improve their access to training and employment pathways; and
 - (d) undertake community development processes to address locally identified priorities and needs.
5. Community development practice is based on the premise that communities have strengths and assets.
6. Additionally Neighbourhood Houses and Learning Centres in Yarra are governed by independent and volunteer Governance Committees and run by paid staff.
7. The Neighbourhood Houses and Learning Centres Partnerships Strategy 2014 - 2017 (the Partnerships Strategy) is based on the Memorandum of Understanding 2013 - 2017 (MOU) between Yarra City Council and Yarra’s nine Neighbourhood Houses and Learning Centres.
8. Council endorsed the Partnerships Strategy 2014 - 2017 with Yarra’s nine Neighbourhood Houses and Learning Centres (the Houses) in March 2014. The Partnerships Strategy and Action Plan sets out four key areas with actions that support and strengthen the collaborative partnership between Council and the Houses. The nine Houses that are signatories to the Partnerships Strategy are:
 - (a) Alphington Community Centre;
 - (b) Belgium Avenue Neighbourhood House;
 - (c) Carlton Neighbourhood Learning Centre;

- (d) Collingwood Neighbourhood House;
 - (e) Finbar Neighbourhood House;
 - (f) Fitzroy Learning Network;
 - (g) Holden Street Neighbourhood House;
 - (h) North Carlton Railway Neighbourhood House; and
 - (i) Richmond Community Learning Centre.
9. The development of the Partnerships Strategy was in line with the adoption of the MOU formally signed by Council and the Houses in August 2013. The Partnerships Strategy defines a shared vision between Council and the Houses based on trust and flexibility to achieve a resilient and empowered community. It also defines key strategies, and practical actions to address the key focus areas.
10. The Partnerships Strategy confirms and clarifies roles, relationships, partnering opportunities and mutual benefits of a more coordinated, collaborative approach between the Houses and Council. It reflects the strong working relationships of the Houses with several of Council's branches e.g., Sustainability and Strategic Transport, Waste Minimisation, Building and Property Management, Communications, Library Services, Emergency and Risk Management, Social Policy & Research, Aged and Disability Services and Family, Youth and Children's Services.
11. The Partnerships Strategy and Action Plan is an active document that provides a collaborative environment for the Houses to work in partnership with the various units/branches across Council to deliver appropriate and responsive programs and activities to Yarra residents.

Achievements of the Partnerships Strategy and Action Plan 2014-2017

12. In February 2016 all Houses participated in two facilitated sessions on responding to "The Trends of Change for Neighbourhood Houses". As a direct outcome of these discussions all participants agreed to deliver on four key focus areas for 2016 (**Attachment 1**). The following are some of the highlights:

Strategy 1: Undertake a change management process

- (a) Richmond Community Learning Centre (RCLC) has engaged a consultant to support an Organisational Development Review across the three sites including Studio1 and Burnley Backyard. The project will identify future opportunities and develop strategies to respond to the changing demographic environment;
- (b) Belgium Avenue has developed a partnership with Melbourne University for internships to explore long term financial viability in an environment of decreasing government funding. The project will commence in February 2017 and will explore a range of funding opportunities such as sponsorship, corporate support, social enterprise, crowd funding, fee for service and philanthropic support. It is anticipated the findings and learnings from the project will be shared across the 9 neighbourhood houses;
- (c) Collingwood Neighbourhood House has developed a partnership with Envision Employment Services as part of the "Work for the dole" program to fit out a disused caravan into a food truck, located at the Collingwood public housing estate community hub alongside the community garden. The food truck will create opportunities for unemployed people to re-engage in community and encourage further learning and employment pathways;
- (d) Belgium Avenue has developed a partnership with Ford Australia as part of their "good corporate citizens" program. This involves Ford staff as part of their community service program supporting the house with various projects and maintenance activities e.g. assisting with the Belgium Ave community garden; and

- (e) The Manger of Alphington Community Centre founded and convenes the Yarra Volunteer Manager and Coordinators network (YVMCN) to explore volunteer banking opportunities across all houses;

Strategy 2: Marketing, Branding and Communication

- (a) "Music and Art from the Heart" - a special musical and art event was presented for the third year by Yarra's Neighbourhood House Network (the Network) to celebrate Neighbourhood House Week 2016. With over 300 residents attending this was a collaborative event with all Houses and Council to deliver a community event showcasing choirs, folk singers, bands and arts and crafts. This has become an annual event that promotes the community development work of the Houses to the Yarra residents, Council staff, and local agencies;
- (b) the Network has developed a collaborative Facebook page to promote the work of the Houses in Yarra to a broader and expanding demographic. Houses are also developing their own specific websites and developing an active social media presence to market their programs and activities to a broader more diverse Yarra community;
- (c) the network is exploring the social media space to promote and showcase events and achievements via short "YouTube" clips such as the short clip on "Space between Light" festival held at Richmond Housing Estate. This collaborative project with RMIT students and Belgium Ave was developed to highlight the community development process and active engagement with a broad socially diverse community in and around the Richmond Estate. The event also promotes the use of public art to shift perceptions of safety on the estate;
- (d) the Network continues to work with Yarra Libraries to cross promote projects, services and events to broaden community knowledge of the Houses, improve the capacity of Houses and to market programs to a changing demographic e.g., "Movies in the Park" a project organised by Holden St and Library Services. RCLC partnered with Richmond Library for the "Progressive Lunch" event to promote, Studio 1, Burnley Back Yard and the newly refurbished Richmond Library. In addition, the Coordinator, Community Learning and Partnerships continues to meet with individual Houses to promote specific House projects via the Library newsletter; and
- (e) the "Link" newsletter produced by the Richmond, Collingwood and Fitzroy estates, is being utilised as a promotional tool for all Houses to profile and highlight specific programs, activities and events to Yarra residents;

Strategy 3: Studio 1 – Showcase for all Neighbourhood Houses

- (a) the Network and individual Houses actively promote the activities of Studio 1 and where relevant refer clients to Studio 1 activities; and
- (b) Studio 1 works collaboratively with Council's Venues and Events team to participate in and promote joint events such as Open House. In addition Studio 1 works with Venues and Events team to promote Expressions of Interest from community groups in developing the Co-Working space;

Strategy 4: Resource Sharing and Collaboration

- (a) the CEO of Inner North Cluster of Neighbourhood Houses attended the Network meeting and presented a model for resource sharing and collaboration across the Yarra Houses;
- (b) Holden St has supported a submission from Railway House to share coordination and training of volunteers, volunteer policy and coordination across the two closely geographically located houses;
- (c) The Network has had various speakers on the new National Disability Insurance Scheme (NDIS) to explore how the Neighbourhood House sector can most effectively position itself in the new NDIS landscape;

- (d) The Network has been exploring and connecting with new community and business partnerships, such as the partnerships formed by Belgium Ave with Ford Australia and Last Match Recordings which offers opportunities for disadvantaged groups to experience professional musical recordings;
 - (e) Houses are identifying particular skill sets to share and promote their strengths in specific areas. E.g., grant writing, catering, art and music etc. The Network continues to maintain robust relationships with various Council units, e.g., Library Services, Sustainability and Strategic Transport, Waste Management, Family and Children's Services and the Community Partnerships Branch to update Houses on Council strategies and project opportunities; and
 - (f) All Houses maintain strong links and share resources with their key local agencies and networks to share information, cross promote services and respond to emerging issues for their local communities.
13. Yarra's Neighbourhood Houses bring people together to connect, learn and contribute in their local community through social, educational, recreational and support activities, using a unique community development approach.
 14. All the 9 Houses respond to locally identified needs and priorities and each is as diverse as the community it reflects. According to the neighbourhood houses survey in 2015 by the peak body Neighbourhood Houses Victoria, approximately 2,700 people visited a Yarra Neighbourhood House in a week. This included students, volunteers, children in child care, people from other organisations for training/meetings and "drop-ins". Approximately 75% of the participants were involved in programed activities.
 15. All 9 houses provide a range of activities that meet the needs of the local community such as accredited vocational education & training, art and craft, children's activities and child care, community choirs, events and lunches, digital literacy, English language classes, sustainability projects, health and wellbeing classes, men's shed, seniors and youth groups as well as programs for refugee and recently arrived communities.

External Consultation

16. The Partnership Strategy was undertaken in consultation with each of the nine Houses and their management committee representatives as well as Network representatives. The implementation of the Partnerships Strategy and Action Plan is monitored by the Yarra Neighbourhood House Network.

Internal Consultation (One Yarra)

17. Internal consultation for the Partnerships Strategy was undertaken with Council Officers from various Branches including: Communications, Library Services, Sustainable and Strategic Transport, Organisational Performance, Aged and Disability Services and Family, Youth and Children's Services. Councillors were also invited to provide feedback. The process was facilitated by officers from the Community Partnerships Unit who have the major responsibility for managing the relationship with the Houses.
18. The Action Plan is reviewed annually at a planning day attended by the House Managers, House staff, Committee Members and Community Partnerships staff and is facilitated by the Manger of the North East neighbourhood House Network (NENHN).

Financial Implications

19. There are no financial implications from the annual progress report of the Partnerships Strategy and Action Plan.
20. In 2016/17 Council allocated \$663,987 to Yarra's 9 Neighbourhood Houses and Learning Centres through the Neighbourhood House Funding Program. The funding is based on the model that was adopted by Council in February 2012 and reviewed in October 2015.
21. Further to the Neighbourhood House Funding Program, Council has a capital responsibility as it is the landlord to four of the Houses: Holden Street Neighbourhood House, North Carlton Railway Neighbourhood House, Richmond Community Learning Centre, Burnley Backyard and landlord to the land adjacent to Belgium Avenue Neighbourhood House.

22. In addition Council's new facility, Studio 1 Community Hub, is currently being leased to the Richmond Community Learning Centre in a unique partnership arrangement between Council and the Learning Centre.

Economic Implications

23. The direct and indirect economic implications that Yarra's Houses have on the Yarra community and businesses are primarily around the adult education that occurs within the Houses. This provides opportunities for adults to learn new skills and creates pathways for transition into the workforce, education or further training. This includes the English classes, programs and activities that assist and support newly arrived communities to participate fully in their local community and develop a better understanding of life in Australia.
24. In addition, the Houses provide a variety of part time employment for teachers, childcare workers, administration, project workers, community development workers, arts practitioners, financial and IT staff that are important sources of local employment.
25. Yarra's Houses have a high volunteer participation rate. This contribution to Yarra's economy is significant in terms of economic and social capital.

Sustainability Implications

26. All Houses are currently providing a range of educational programs and initiatives on environmental sustainability and climate change issues. Houses are working closely with Staff from Council's Sustainability Unit such as the Urban Agriculture Facilitator working with Collingwood Neighbourhood House to develop the community garden on the estate.
27. Finbar Neighbourhood House has developed its Community Garden Project in collaboration with Council's Sustainability Unit. The project provides opportunities to share excess produce with the local community as well as with not for profit organisations such as Fare Share and Second Bite. It also offers organic seeds to encourage and inspire the local community to start their own gardens. The House has connected with local businesses to encourage compost donations used to nourish the garden and help to reduce landfill. In addition, Finbar provides monthly workshops on sustainable and organic gardening as well as composting to encourage the local community to grow their own gardens, develop friendships and build a resilient sustainable community.
28. Environmental and Sustainability activities continue to be an important part of Holden Street in being a role model to the local community in reuse, recycling and limiting energy consumption. The House continues to be part of the Sustainable Living Festival with its many environmental features, such as solar panels, lights, water tanks, permaculture and rainwater gardens as well as herb gardens and worm farms.
29. Richmond Community Learning Centre provides sustainability programs including a kitchen garden and educating the local community in energy efficiency and sustainability activities. Studio 1 Community Hub is an additional site for the Richmond Community Learning Centre providing flexible spaces with up-to-date technology and facilities which offers opportunities for more dynamic and diverse programs and activities for a changing demographic.
30. The Burnley Backyard in Tudor Street Richmond is also operating as an additional site of Richmond Community Learning Centre offering outdoor activities such as, community gardens and other sustainability initiatives that represent diverse community needs.

Social Implications

31. The Houses play a key role in community development through: building knowledge, developing skills, increasing levels of resilience, mutuality and trust within the community. The Houses have a track record in:
 - (a) community building and strengthening through cultural events and festivals celebrating and showcasing Yarra's culturally and linguistically diverse communities (CALD);

- (b) providing appropriate and responsive community services: for children, young people, the elderly, people with disabilities, CALD, refugee and newly arrived and disadvantaged communities;
- (c) providing opportunities to improve community health and well-being and social connectedness, through a range of exercise programs and community gym memberships; and
- (d) Offering accessible and affordable education, skills development, life-long learning opportunities and employment pathways.

Human Rights Implications

- 32. The Partnerships Strategy recognises and respects the *Charter of Human Rights and Responsibilities Act 2006* by actively supporting the Charter's substantive rights through the programs and activities offered by the Houses.

Communications with CALD Communities Implications

- 33. All Houses deliver a range of programs, services and activities to CALD communities across Yarra. There are no implications for the way the Houses communicate, engage with or deliver services to their CALD communities.
- 34. As part of their core business, all houses, engage with CALD, refugee and newly arrived communities through educational programs, social activities such as community lunches and celebrations such as Lunar New Year and Harmony Day.
- 35. Some Houses also have individuals from CALD backgrounds on Committees of Governance, acting as facilitators for specific groups such as playgroups, and leading specific community development projects such as supporting African Women's Groups. Houses also support a wide variety of ethno-specific groups by auspicing their activities.

Council Plan, Strategy and Policy Implications

- 36. The Partnerships Strategy relates to all five Strategic Objectives in the Council Plan 2013 - 17: Celebrating Yarra's uniqueness; Supporting Yarra's community; Making Yarra more liveable; Ensuring a Sustainable Yarra; and Leading Local Government.

Legal Implications

- 37. The Partnerships Strategy and Action Plan which is based on the Memorandum of Understanding is not legally binding on either or both parties.

Other Issues

- 38. In March 2016 Council endorsed the recommendations from the report "*Review of Neighbourhood House Funding 2015*". Council continues to work through the recommendations in relation to the Neighbourhood Houses. For example Council is supporting houses to explore flexible and creative use of space to improve access for diverse user groups outside the normal hours of operation. Council continues to provide publicity and marketing support to Houses via Yarra News and social media to improve knowledge and access to more diverse groups and Council continues to provide the "Skills Training for Community Organisations" program which is accessed by neighbourhood houses.

Conclusion

- 39. The Partnerships Strategy and Action Plan acknowledges the valuable relationship between Council and the Houses and provides a framework of trust and collaboration to deliver programs and activities to benefit the Yarra community. The Strategy and Action Plan defines a shared vision for Council and the Houses, where collaboration, trust and flexibility can achieve resilient and empowered communities in a changing environment.
- 40. All houses are consolidating their strengths to address the changing political, financial and demographic impacts and developing new strategies and seeking new opportunities and partnerships to respond to the changes in positive and creative ways.

41. In moving forward the Network continues to seek collaborative projects, develop a core message to promote neighbourhood houses, their purpose, value and community benefit to a new demographic and engage more actively in resource sharing.
42. The Partnerships Strategy & Action Plan for 2017 will focus on the following key areas: Undertake a Change Management Process – Connecting with New Communities; Marketing, Branding and Communication; and Resource Sharing and Collaboration. These three areas will provide the forward direction for the increased collaboration between the Houses to continue responding creatively to the changing needs of Yarra communities (**Attachment 2**).

RECOMMENDATION

1. That Council:
 - (a) note the progress report for 2016 of the Neighbourhood Houses and Learning Centres Partnerships Strategy and Action Plan 2014 – 2017; and
 - (b) endorse the Neighbourhood Houses and Learning Centres Partnerships Strategy and Third Year Action Plan.

CONTACT OFFICER: Katherine Vrettas
TITLE: Community Planner
TEL: 9205 5174

Attachments

- 1 Yarra Neighbourhood Houses and Yarra City Council Partnerships Strategy and Action Plan 2014 - 2017 Year 2 Actions - 2016
- 2 Yarra Neighbourhood Houses and Yarra City Council Partnerships Strategy and Action Plan 2014 - 2017 Year 3 Actions - 2017

Attachment 1 - Yarra Neighbourhood Houses and Yarra City Council Partnerships Strategy and Action Plan 2014 - 2017 Year 2 Actions - 2016

STRATEGY	ACTION	WHO	OUTCOMES
<p>Strategy 1: Undertake a change management process.</p> <p>Based on the current context the partnership is operating in, undertake a significant change process to adapt and be sustainable and viable in the coming environment. All Houses agreed to engage a change management specialist to facilitate this process.</p>	<ul style="list-style-type: none"> Contract a change management specialist Change management specialist to facilitate the creation of a roadmap to a sustainable future for the Yarra Neighbourhood Houses. This process is to include, committees, coordinators, staff, volunteers and council officers Participants identify opportunities and areas for further exploration. Presentations offered over two days in February 2016, during the day and evening to maximise attendance. 	<p>Community Planning</p> <p>All Neighbourhood Houses, Communities of Management, Staff</p> <p>Volunteers</p>	<p>Two workshops were held in February 2016, all houses were represented.</p> <p>Richmond Community Learning Centre (RCLC) engaged consultants to support an Organisational Development review to identify future opportunities and develop strategies that respond to the challenges of a changing environment.</p> <p>Belgium Ave Neighbourhood House (BANH) Inc have partnered with Melb Univ for an internship on future financial viability for houses. Developing relationship with Ford Aust with their “good corporate citizens” program.</p>
<p>Strategy 2: Marketing, branding and communication.</p> <p>As a network define a key consistent message and develop strategies to market and communicate with the whole of the community, both new and established.</p>	<ul style="list-style-type: none"> Develop a key message agreed upon by all partners to promote the value and benefit of neighbourhood houses to the community Identify two low cost and effective marketing strategies which can be used by all partners to raise profile of Neighbourhood Houses Report quarterly on the utilisation and effectiveness of the strategies Educate and inform key stakeholders on the role of Neighbourhood Houses in community development practice 	<p>Yarra Network</p> <p>All neighbourhood houses</p> <p>Community Planning Unit</p> <p>Communications Unit</p>	<p>Network developed joint Facebook page.</p> <p>Councillors and council staff invited to House events e.g. “Space between Lights” festival.</p> <p>RCLC has partnered with the library in delivering several events to promote Burnley Backyard (BB) and Studio 1.</p> <p>“Music from the Heart” event organised by Network to promote Neighbourhood Houses (NHs) to whole of Yarra community.</p> <p>Collingwood NH developed video in</p>

Attachment 1 - Yarra Neighbourhood Houses and Yarra City Council Partnerships Strategy and Action Plan 2014 - 2017 Year 2 Actions - 2016

	<ul style="list-style-type: none"> Engage with all Councillors Engage with staff across Council 		partnership with north East Neighbourhood House Network (NENHN) Video on the Community Development process in delivering the festival "Space Between Light".
<p>Strategy 3: Studio 1 – showcase for all Neighbourhood Houses.</p> <p>Use Studio 1 as a showcase to highlight the potential opportunities and benefits in having it operate as a neighbourhood house as well as a venue for hire. Promote Studio 1 as an example of collaboration between the private sector, Council and Neighbourhood Houses to create a new facility for hire as well as offering a range of programs and activities within a community development framework.</p>	<ul style="list-style-type: none"> All partners support Richmond Community Learning Centre(RCLC) to make Studio 1 a success Houses cross-promote activities held at Studio 1 Houses work collaboratively with Studio 1 to deliver program and activities. Houses support and promote Studio 1 co-working model 	<p>Yarra Network</p> <p>All neighbourhood Houses</p>	<p>Use Studio 1 as a meeting space for a Yarra Volunteer Manager and Coordinators meetings. RCLC provided updates on Studio 1 activities at Network meetings. Info from Houses and group events "Music from the Heart" event digitally displayed at Studio 1. Input and advice from other coordinators re programs at Studio 1 and Burnley Backyard. Collaborating with Council Venues & Events team to participate in joint events e.g. Open House. RCLC collaborated with Venues & Events team in Expressions of Interest (EOI) interest from community groups regarding shared space projects.</p>
<p>Strategy 4: Resource Sharing and Collaboration</p> <p>Investigate the opportunities and operating models for resource sharing and collaboration e.g. IT, finance, human resources, volunteering, cleaning, office supplies, etc. specifically for the Yarra Network.</p>	<ul style="list-style-type: none"> Invite CEO of Inner North Cluster (INC) to be a guest speaker at a Yarra Neighbourhood House Network meeting to discuss opportunities for resource collaboration to investigate the viability of centralised neighbourhood house support systems and building capacity through skill sharing to assist in managing finances, 	<p>Yarra Network</p> <p>Individual Houses</p>	<p>INC CEO attended network meeting and presented model on resource collaboration between houses. Discussion with Committees of Governance (CoGs) around possible resource sharing. Alphington Community Centre (ACC) started Yarra Volunteer Managers and Coordinators Network and will</p>

**Attachment 1 - Yarra Neighbourhood Houses and Yarra City Council Partnerships Strategy and Action Plan 2014 - 2017 Year 2
Actions - 2016**

	<p>reporting requirements, human resources and joint funding applications</p> <ul style="list-style-type: none"> • Develop a working group to explore shared coordination of volunteers across the Network, such as volunteer policy, harmonising documentation, and training processes • Develop a working group to investigate opportunities for houses to generate economies of scale. E.g. Shared program delivery, a shared community development approach to address the changing needs and demands through shared objectives and programs 		<p>explore volunteer bank. Dropbox used to share policy info across all houses. BANH Partnership with Carringbush Adult Education in delivering services and maintaining data collection. Network Information sessions x2 on National Disability Insurance Scheme (NDIS) to explore how the NH sector can effectively place itself in the new landscape. BANH is developing new partnerships with e.g. Ford Aust, Last Match Recordings, and Tertiary Education sector, such as Melb Univ, RMIT. Network developing skill sharing with other Houses e.g., in grant writing, setting up social enterprise.</p>
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Attachment 2 - Yarra Neighbourhood Houses and Yarra City Council Partnerships Strategy and Action Plan 2014 - 2017 Year 3 Actions - 2017

STRATEGY	ACTION	WHO	OUTCOMES
<p><i>Strategy 1: Undertake a change management process to reach Yarra's new demographic.</i></p> <p>Based on the current context the partnership is operating in, continue to undertake a change process to adapt, be sustainable and viable in the changing environment and forge a new role for houses as connectors with the new communities of Yarra.</p>	<ul style="list-style-type: none"> Identify the changes that we need to respond to as NHs e.g., requests for new activities. Belgium Ave Neighbourhood House (BANH) and Richmond Community Learning Centre (RCLC) to share findings of research projects at a Yarra Network Meeting. Council Planner to do presentation for NHs on preliminary data from 2016 Census. Explore after hours use of houses / share results of Holden St NH After Dark project. Offer innovations workshop on working with Yarra's new demographic and a changing environment. etc. 	<p>All Neighbourhood Houses, Communities of Management, Staff Volunteers Council's Community Planning Unit</p>	
<p><i>Strategy 2: Marketing, branding and communication.</i></p> <p>As a network define a key consistent message and develop strategies to market and communicate with the whole of the community, both new and established.</p>	<ul style="list-style-type: none"> Develop a consistent message e.g.: "Your House, Your Community" or "Your House Our Community". Explore a new Yarra NH logo to profile the Houses and the network as a collective. Explore the possibility of presenting House reports in an alternative format e.g. short film/YouTube showcasing achievements etc. Continue to develop Yarra Facebook page, e.g., create a snap shot page to promote each house. Connect with Melb Uni marketing 	<p>Yarra Network All neighbourhood houses Community Planning Unit Council Communications Unit</p>	

Attachment 2 - Yarra Neighbourhood Houses and Yarra City Council Partnerships Strategy and Action Plan 2014 - 2017 Year 3 Actions - 2017

	<p>interns to assist with marketing of houses.</p> <ul style="list-style-type: none"> • Develop AVANT cards. • Develop posters to advertise houses across Yarra e.g. at Transport stops. • Use real estate boards to promote the work of Houses – e.g. women from different cultures and their recipes. • Walking groups to do letter drops promoting house activities. • Develop short documentaries of neighbourhood house activities/events and post on social media. • Develop neighbourhood house report to profile houses across Council and the broader community. • Maintain connection with libraries to cross promote via the Library calendar • Create short film on “Music from the Heart” community event and post on social media. • Fitzroy Learning Network (FLN) to share crowd funding experience. • Continue to engage with Councillors. • Continue to engage with staff across Council. 		
<p>Strategy 3: Resource Sharing and Collaboration</p> <p>Investigate the opportunities and operating models for resource sharing and collaboration e.g. IT, finance, human resources, volunteering, cleaning, office</p>	<ul style="list-style-type: none"> • Network to discuss relevance of findings from Barwon Network’s Shared Services Research project. • Develop a working group to review the feasibility of bulk purchasing, audits and cleaning equipment etc. 	<p>The Network</p> <p>Individual Neighbourhood Houses</p>	

Attachment 2 - Yarra Neighbourhood Houses and Yarra City Council Partnerships Strategy and Action Plan 2014 - 2017 Year 3 Actions - 2017

supplies, etc. specifically for the Yarra Network.	<ul style="list-style-type: none"> • Develop a volunteer network group to explore shared volunteer services across all the houses. • Develop a working group to establish a casual employee data bank including policies and procedures. • Houses continue to use dropbox for shared resources e.g. policies/strategies. • Develop a shared equipment list with policies and procedures for use (e.g. laptops, sewing machines, • Explore formal ways to do joint funding submissions. • Invite Knox Learning Alliance (KLA) to present on their model of collaboration and joint tender writing. 		
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Plan was revised on 8 November 2016 at Fitzroy Town Hall Reading Room.

Facilitator: Julie Johnston-Manager, Northeast Neighbourhood House Network (NENHN)

PARTICIPANT	POSITION	NEIGHBOURHOOD HOUSE
Lyn Davies	Manager	Finbar
Bruce McAsey	Governance	Finbar
Mary Parfrey	Manager	Carlton neighbourhood Learning Centre (CNLC)
James Clarke	Governance	Belgium Ave Neighbourhood House (BANH)
Sue Kent	Manager	BANH
Barb Sawyer	Governance	BAHN
Karen Hovenga	Governance	BANH
Rebecca Callahan	Manager	Nth Carlton Railway Neighbourhood House (NCRNH)
Jeff Atkinson	Governance	NCRNH
Jayne Garnaut	Governance	NCRNH
Jane Edmonds	Governance	NCRNH
Becca Smith	Manager	Alphington Community Centre (ACC)

**Attachment 2 - Yarra Neighbourhood Houses and Yarra City Council Partnerships Strategy and Action Plan 2014 - 2017 Year 3
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Robyn Carey	Staff	Holden St neighbourhood House (HSNH)
Jemal Ahmet	Manager	Fitzroy Learning Network (FLN)
Simone Gardiner	Manager	Richmond Community Learning Centre (RCLC)
Sally Markham	Governance	RCLC
Kathy Vrettas	Community Planner	City of Yarra
Cristina De Frate	Community Planner	City of Yarra
Apologies: Jacinta MacManamon	Manager	HSNH

11.5 Appointment of Authorised Officers - Planning and Environment Act 1987

Trim Record Number: D17/25275

Responsible Officer: Group Manager Chief Executive's Office

Purpose

1. To provide for the formal appointment of Council Officers as Authorised Officers pursuant to Section 147(4) of the *Planning and Environment Act 1987* and Section 232 of the *Local Government Act 1989*.

Background

2. Following the issuance by Council's authorised officers of infringements under the Planning and Environment Act and associated regulations, the recipients of infringement notices have the opportunity to seek a formal review of the infringement.
3. These reviews are conducted by an independent panel (i.e. they do not include the officer who issued the original infringement notice), with a formal decision being made by a different Authorised Officer.
4. Council's solicitors have advised that this process is potentially open to challenge, as not all members of these panels are authorised to issue infringements. While we are advised that the fact that both the original decision-maker and the reviewing decision-maker have the necessary authorisation means that such a challenge is unlikely to succeed, they suggest that providing all panel members with the necessary authorisation would put this matter beyond doubt.
5. On this basis, this report recommends that all Council staff who participate in these review panels be authorised pursuant to Section 147(4) of the *Planning and Environment Act 1987* and Section 232 of the *Local Government Act 1989*.

Consultation

6. This report has been prepared on the basis of advice from Council's solicitors.

Financial Implications

7. There are no direct financial implications arising from the appointment of an authorised officer.

Economic Implications

8. This report has no economic implications.

Sustainability Implications

9. This report has no sustainability implications.

Social Implications

10. This report has no direct social implications.

Human Rights Implications

11. This report has no Human Rights implications.

Communications with CALD Communities Implications

12. Not applicable.

Council Plan, Strategy and Policy Implications

13. This report is an example of this Council's positive action, in demonstrating its commitment to its legislative obligations.

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 232 of the *Local Government Act 1989*).

Other Issues

15. Not applicable.

Options

16. Not applicable.

Conclusion

17. That Council formally appoint Claire Abakumenko, Rachelle Bingham, Rosemary Brundell, Samantha Hall, Grant Kelly and Daniel Ketteringham and as authorised officers pursuant to Section 147 (4) of the *Planning and Environment Act 1987* and Section 232 of the *Local Government Act 1989*. The Instrument of Appointment and Authorisation document will be signed accordingly by the Chief Executive Officer.

RECOMMENDATION

1. That Council:
 - (a) formally appoints Claire Abakumenko, Rachelle Bingham, Rosemary Brundell, Samantha Hall, Grant Kelly and Daniel Ketteringham as Authorised Officers pursuant to Section 147(4) of the *Planning and Environment Act 1987* and Section 232 of the *Local Government Act 1989*; and
 - (b) directs that the Instrument of Appointment and Authorisation be signed accordingly by the Chief Executive Officer.

CONTACT OFFICER: Rhys Thomas
TITLE: Senior Governance Advisor
TEL: 9205 5302

Attachments

There are no attachments for this report.

12.1 Notice of Motion No. 5 of 2017 - City of Melbourne Proposed Local Law

Trim Record Number: D17/25778

Responsible Officer: Group Manager Chief Executive's Office

I, Councillor Mike McEvoy hereby give notice that it is my intention to move the following motion at the Ordinary Meeting of Council to be held on 7 March 2017:

“That Yarra City Council:

- (a) make a formal written submission on Melbourne City Council’s Local Law amendments by Friday 17 March, and that the submission set out general opposition to the Local Law amendments, including the following arguments:
 - (i) the changes cast homeless people themselves as the problem, while doing nothing to address the root causes of homelessness;
 - (ii) if the fear generated by the proposal drives people away from the public realm, serious safety implications may arise;
 - (iii) there may be a displacement effect, impacting neighbouring municipalities;
 - (iv) homelessness service providers, peak bodies and legal community centres oppose the changes; and
 - (v) it is already an offence under the Local Law at part 2.1 to obstruct the footpath in a public place; as such the case for the amendments in relation to changing the definition of camping has not been made; and
- (b) offer to work collaboratively with the City of Melbourne to:
 - (i) share best practice for more compassionate responses to people experiencing homelessness; and
 - (ii) coordinate an advocacy campaign to State and Federal Governments to address the root causes of homelessness.”

Background

1. The City of Melbourne has recently proposed amendments to the Council’s Activities Local Law 2009. The Local Law amendments were supported in principle by the City of Melbourne’s Future Melbourne Committee, in a vote of 5 to 4, on 7 February 2017. The Local Law amendments are out for public submission now and until 17 March 2017.
2. The City of Melbourne website sets out the purpose of the Local Law amendments:

Purpose and general purport: The purpose and general purport of the proposed Local Law is to:

- (a) *amend the objectives of the Principal Local Law including inserting a new objective to support the Council’s disability action plan prepared under section 38 of the Disability Act 2006;*
- (b) *broaden the definition of camping in the Principal Local Law;*
- (c) *provide that a person must not without a permit leave items unattended in a public place, an infringement penalty for contravention and a process by which such unattended items can be confiscated and impounded;*
- (d) *update the penalties fixed for infringements in the Principal Local Law as a consequence of the proposed Local Law; and*
- (e) *provide for the peace, order and good government of the municipality.*

3. The proposed changes broaden the definition of camping from the existing provision (making it an offence to camp in a public place in a vehicle, tent, caravan or any type of temporary or provisional form of accommodation) to a new definition (making it an offence to camp – without further defining ‘camping’). This will therefore now have the potential to apply to people who are alone, sleeping in public under nothing more than a blanket, for example. The changes also set up a process for the confiscation and release of unattended items in the public realm; these include significant fees for collection of confiscated items.
4. The proposed laws unfairly vilify homeless people and cast rough sleepers themselves as ‘the problem’. They fail to address the complexity and root causes of homelessness, and by treating a symptom but not the cause, create further problems.
5. Like the City of Melbourne, the City of Yarra has a high rate of homelessness. We recognise that this situation is likely to continue while there is a severe shortage of appropriate and affordable housing in Melbourne.
6. The critical lack of public housing, crisis accommodation, and supported housing is a direct driver of rough sleeping and homelessness. Previous housing options for people who sleep rough have sharply diminished as housing stock has become less affordable, rooming house bed numbers have fallen, public housing stock has declined, and new cohorts such as elder single women have entered the homelessness system in significant numbers.
7. While local governments have limited capacity to provide housing responses to these structural drivers of rough sleeping, Councils can have a significant impact on the wellbeing of people sleeping rough, both positive and negative. In 2012, with support from local agencies, Yarra City Council developed a Protocol for Responding to People Experiencing Primary Homelessness. The aim was to help Council officers, Yarra residents and businesses to respond appropriately and effectively to issues related to homelessness through raising awareness of the resources and supports available. In 2014 we worked with HomeGround Services and Hanover Welfare Services to develop and deliver a trial called The Engagement Response to Primary Homelessness. Yarra continued to fund this program in 2014/15 and 2015/16 and on December 20, 2016 resolved to continue again in 2016/17. Yarra City Council provides ancillary support through its Youth and Family Services, Buildings and Property Branch, Environmental Health Unit and Social Policy Unit.
8. We seek to foster an inclusive and dynamic community and believe housing is a human right. Council will continue to pursue social and affordable housing outcomes for the community through its policies, targeted funding and determined advocacy to State and Federal Governments. We also extend our hand to work collaboratively with the City of Melbourne on a more compassionate response to people experiencing homelessness.

RECOMMENDATION

1. That Yarra City Council:

- (a) make a formal written submission on Melbourne City Council's Local Law amendments by Friday 17 March, and that the submission set out general opposition to the Local Law amendments, including the following arguments:
 - (i) the changes cast homeless people themselves as the problem, while doing nothing to address the root causes of homelessness;
 - (ii) if the fear generated by the proposal drives people away from the public realm, serious safety implications may arise;
 - (iii) there may be a displacement effect, impacting neighbouring municipalities;
 - (iv) homelessness service providers, peak bodies and legal community centres oppose the changes; and
 - (v) it is already an offence under the Local Law at part 2.1 to obstruct the footpath in a public place; as such the case for the amendments in relation to changing the definition of camping has not been made; and
- (b) offer to work collaboratively with the City of Melbourne to:
 - (i) share best practice for more compassionate responses to people experiencing homelessness; and
 - (ii) coordinate an advocacy campaign to State and Federal Governments to address the root causes of homelessness.

12.2 Notice of Motion No. 6 of 2017 - Richmond High School and Melbourne Girls College

Trim Record Number: D17/23858

Responsible Officer: Group Manager Chief Executive's Office

I, Councillor Daniel Nguyen hereby give notice that it is my intention to move the following motion at the Ordinary Meeting of Council to be held on 7 March 2017:

“That Yarra City Council:

- (a) congratulate and extend its appreciation to:
 - (i) the State Government and the Member for Richmond for supporting the campaign for and now proceeding with the construction of the new Richmond High School (interim name) at Highett / Griffiths Street Richmond;
 - (ii) the community of Richmond and beyond who have for many years, arduously campaigned for the re-establishment of a Secondary College in Richmond following the closure in 1992 of the former Richmond High School (later named Richmond Secondary College) at the site of the now Melbourne Girls College;
- (b) express its strong concern that as a consequence of the new Richmond High School opening its doors next year:
 - (i) the Government is introducing new zone boundaries for Melbourne Girls School in Richmond and which will significantly shrink the current zone and result in zoning-out many Richmond families, excluding most residences west of Burnley Street Richmond, including sections of Richmond's Public housing estates, from accessing the prestigious secondary girls school, whilst still including some parts of Kew, Hawthorn and Toorak; and
 - (ii) the de-zoned areas of Richmond will remove the potential for girls from that area having access to a local state-run girls only educational facility; and
- (c) request the Mayor and Chief Executive Officer to urgently seek meetings with the Member for Richmond and the Minister for Education, to have the proposed zone changes reversed so as to ensure students being residents of Richmond, Cremorne and Burnley and including public housing estates in those areas, have access to either of the Richmond High School or the Melbourne Girls College.”

Background

1. Clearly there is a long history to the determined campaign for re-establishment of a co-educational secondary school for Richmond after its closure in 1992.
2. The outcome of the zone change for students accessing Melbourne Girls College will result in female students of the Richmond area not now having the choice of a single-sex state education and which is considered unfair and indeed prejudicial to some cultures.
3. It is understood that an informal arrangement has previously meant that the Melbourne Girls School must provide for female students who live south of Victoria Street with automatic entry to the girl's school if they want to attend. At this stage it is unclear whether this arrangement would be able to continue.
4. Media coverage has noted parents are grossly concerned that their school choice had been taken away due to the zone changes. Initially planning to send their daughters to Melbourne Girls College, some parents had remained in Richmond so that their daughters could attend that school. The resulting zone change will exclude them from that opportunity.

5. Media reports also noted parent's distress in knowing that girls living much further afield in suburbs such as Hawthorn and Kew still retain access to the school, whilst nearby Richmond locals, who have planned their lives based on this educational option have now been excluded.

RECOMMENDATION

1. That Yarra City Council:
 - (a) congratulate and extend its appreciation to:
 - (i) the State Government and the Member for Richmond for supporting the campaign for and now proceeding with the construction of the new Richmond High School (interim name) at Highett / Griffiths Street Richmond;
 - (ii) the community of Richmond and beyond who have for many years, arduously campaigned for the re-establishment of a Secondary College in Richmond following the closure in 1992 of the former Richmond High School (later named Richmond Secondary College) at the site of the now Melbourne Girls College;
 - (b) express its strong concern that as a consequence of the new Richmond High School opening its doors next year:
 - (i) the Government is introducing new zone boundaries for Melbourne Girls School in Richmond and which will significantly shrink the current zone and result in zoning-out many Richmond families, excluding most residences west of Burnley Street Richmond, including sections of Richmond's Public housing estates, from accessing the prestigious secondary girls school, whilst still including some parts of Kew, Hawthorn and Toorak; and
 - (ii) the de-zoned areas of Richmond will remove the potential for girls from that area having access to a local state-run girls only educational facility; and
 - (c) request the Mayor and Chief Executive Officer to urgently seek meetings with the Member for Richmond and the Minister for Education, to have the proposed zone changes reversed so as to ensure students being residents of Richmond, Cremorne and Burnley and including public housing estates in those areas, have access to either of the Richmond High School or the Melbourne Girls College.