Agenda

Council Meeting

7.00pm, Tuesday 30 March 2021

MS Teams

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Council Meetings

Council Meetings are public forums where Councillors come together to meet as a Council and make decisions about important, strategic and other matters. The Mayor presides over all Council Meetings, and they are conducted in accordance with the City of Yarra Governance Rules 2020 and the Council Meetings Operations Policy.

Council meetings are decision-making forums and only Councillors have a formal role. However, Council is committed to transparent governance and to ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered before the decision is made.

There are two ways you can participate in the meeting.

Public Question Time

Yarra City Council welcomes questions from members of the community.

Ideally, questions should be submitted to Council in writing by midday on the day of the meeting via the form available on our website. Submitting your question in advance helps us to provide a more comprehensive answer. Questions that have been submitted in advance will be answered first.

Public question time is an opportunity to ask questions about issues for which you have not been able to gain a satisfactory response on a matter. As such, public question time is not:

- a time to make statements or engage in debate with Councillors;
- a forum to be used in relation to planning application matters which are required to be submitted and considered as part of the formal planning submission;
- a forum for initially raising operational matters, which should be directed to the administration in the first instance.

If you wish to raise matters in relation to an item on this meeting agenda, Council will consider submissions on these items in conjunction with and prior to debate on that agenda item.

When you are invited by the Mayor to ask your question, please come forward, take a seat at the microphone, state your name clearly for the record and:

- direct your question to the Mayor;
- refrain from making statements or engaging in debate
- don’t raise operational matters which have not previously been raised with the Council administration;
- not ask questions about matter listed on the agenda for the current meeting.
- refrain from repeating questions that have been previously asked; and
- if asking a question on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

Once you have asked your question, please remain silent unless called upon by the Mayor to make further comment or to clarify any aspects.

Public submissions

Before each item is considered, the meeting chair will ask people in attendance if they wish to make submission. If you want to make a submission, simply raise your hand and the Mayor will invite you to come forward, take a seat at the microphone, state your name clearly for the record and:

- Speak for a maximum of five minutes;
- direct your submission to the Mayor;
- confine your submission to the subject under consideration;
- avoid repetition and restating previous submitters;
- refrain from asking questions or seeking comments from the Councillors or other submitters;
- if speaking on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

Once you have made your submission, please remain silent unless called upon by the Mayor to make further comment or to clarify any aspects.

Once all submissions have been received, the formal debate may commence. Once the debate has commenced, no further submissions, questions or comments from submitters can be received.

Arrangements to ensure our meetings are accessible to the public

Council meetings are held at either the Richmond Town Hall or the Fitzroy Town Hall. The following arrangements are in place to ensure they are accessible to the public:

- Entrance ramps and lifts (off Moor Street at Fitzroy, entry foyer at Richmond).
- Interpreting assistance is available by arrangement (tel. 9205 5110).
- Auslan interpreting is available by arrangement (tel. 9205 5110).
- A hearing loop is available at Richmond only and the receiver accessory is available by arrangement (tel. 9205 5110).
- Proposed resolutions are displayed on large screen.
- An electronic sound system amplifies Councillors' debate.
- Disability accessible toilet facilities are available at each venue.

Recording and Publication of Meetings

An audio recording is made of all public Council Meetings and then published on Council's website. By participating in proceedings (including during Public Question Time or in making a submission regarding an item before Council), you agree to this publication. You should be aware that any private information volunteered by you during your participation in a meeting is subject to recording and publication.

Order of business

1. **Acknowledgement of Country**
2. **Attendance, apologies and requests for leave of absence**
3. **Announcements**
4. **Declarations of conflict of interest**
5. **Confidential business reports**
6. **Confirmation of minutes**
7. **Public question time**
8. **Council business reports**
9. **Notices of motion**
10. **Petitions and joint letters**
11. **Questions without notice**
12. **Delegates' reports**
13. **General business**
14. **Urgent business**

1. Acknowledgment of Country

"Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra.

We acknowledge their creator spirit Bunjil, their ancestors and their Elders.

We acknowledge the strength and resilience of the Wurundjeri Woi Wurrung, who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion.

We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra.

We pay our respects to Elders from all nations here today—and to their Elders past, present and future."

2. Attendance, apologies and requests for leave of absence

Attendance

Councillors

- Cr Gabrielle de Vietri — Mayor
- Cr Claudia Nguyen — Deputy Mayor
- Cr Edward Crossland — Councillor
- Cr Stephen Jolly — Councillor
- Cr Herschel Landes — Councillor
- Cr Anab Mohamud — Councillor
- Cr Bridgid O'Brien — Councillor
- Cr Amanda Stone — Councillor
- Cr Sophie Wade — Councillor

Council officers

- Vijaya Vaidyanath — Chief Executive Officer
- Brooke Colbert — Group Manager Advocacy and Engagement
- Ivan Gilbert — Group Manager Chief Executive's Office
- Lucas Gosling — Director Community Wellbeing
- Gracie Karabinis — Group Manager People and Culture
- Chris Leivers — Director City Works and Assets
- Diarmuid McAlary — Director Corporate, Business and Finance
- Bruce Phillips — Director Planning and Place Making
- Rhys Thomas — Senior Governance Advisor
- Mel Nikou — Governance Officer

3. Announcements

An opportunity is provided for the Mayor to make any necessary announcements.

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

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

5. Confidential business reports

Item

5.1 C1567 Tender Report for Richmond Preschool Extension and Upgrade

This item is presented for consideration in closed session because it contains private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets or if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

This item is considered applicable because it contains information presented on a commercial in confidence basis during a tender process.

6. Confirmation of minutes

RECOMMENDATION

That the minutes of the Council Meeting held on Tuesday 16 March 2021 be confirmed.

7. Public question time

An opportunity is provided for questions from members of the public.

8. Council business reports

Item		Page	Rec. Page	Report Presenter
8.1	Fitzroy-Collingwood Interim Planning Scheme provisions (stage 2) - Alexandra Parade, Victoria Parade (east of ACU) AND Fitzroy West	9	25	Fiona van der Hoeven – Manager City Strategy
8.2	Collingwood Town Hall Precinct Redevelopment Study	479	495	Lucas Gosling – Director Community Wellbeing
8.3	Recreation Services - Fees, Charges and Allocations	555	570	Sally Jones – Manager Recreation and Leisure Services
8.4	Consultation findings and next steps regarding the Consumption of Liquor in Public Places Local Law	605	630	Malcolm McCall – Manager Social Strategy and Community Development
8.5	Appointment of Authorised Officers under the Planning and Environment Act 1987	1106	1107	Rhys Thomas - Senior Governance Advisor

9. Notices of motion

Nil

10. Petitions and joint letters

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

11. Questions without notice

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

12. Delegate's reports

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

13. General business

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

14. Urgent business

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

8.1 Fitzroy-Collingwood Interim Planning Scheme provisions (stage 2) - Alexandra Parade, Victoria Parade (east of ACU) AND Fitzroy West

Executive Summary

Purpose

The purpose of the report is for Council to consider requesting that the Minister for Planning, in accordance with Section 8 (1) (b) and 20 (4) of the *Planning and Environment Act 1987*, to introduce 'Interim' *Design and Development Overlays* (DDOs): Schedules 38, 39 and 40; to land along Alexandra Parade, Victoria Parade (east of ACU) and Fitzroy West.

Key Issues

Council and the Yarra community places great importance on planning provisions to better manage development pressure, change and provide as much certainty as possible for future development outcomes.

To respond to the increasing development pressure along Alexandra Parade and Victoria Parade, and the mixed use zone area in Fitzroy West, officers have prepared draft 'Interim' *Design and Development* Overlays (DDO's) with the advice of expert consultants to better guide development.

This work represents Stage 2 of a wider built form program in relation to the Fitzroy and Collingwood activity centres and precincts.

The work provides a strategically sound basis, ensuring a balance between maintaining Yarra's heritage fabric and protecting sensitive residential interfaces whilst guiding new development.

The work builds on and supports the *Yarra Housing Strategy 2018* and the *Yarra Spatial Economic and Employment Strategy 2018*.

Financial Implications

The administrative fee to DELWP for requesting the Minister for Planning to introduce 'Interim' DDOs would be met within the existing strategic planning budget.

PROPOSAL

In summary, that Council:

(a) note the officer report and attachments for the Fitzroy-Collingwood Stage 2 interim built form provisions for Alexandra Parade, Victoria Parade and the Fitzroy West Mixed Use Zone area;

(b) adopt the three individual Precinct Review and Built Form Framework reports, supporting Heritage Analysis and Recommendations and the Traffic Engineering Assessment prepared by Hansen Partnership, GJM Heritage and Traffix Group at Attachments 1 to 7;

(c) adopt the interim Design and Development Overlay Schedules 38, 39 and 40 included in Attachment 8;

(d) request the Minister for Planning to introduce DDO schedules on an interim basis for the three Stage 2 Fitzroy-Collingwood precincts outlined above, in accordance with the amendment documentation outlined in the attachments;

(e) authorise officers to consult with the Minister for Planning to assist the Minister to prepare, adopt and approve the Amendment; and

(f) authorise the CEO to make any minor adjustments required to meet the intent of the resolution.

8.1 Fitzroy-Collingwood Interim Planning Scheme provisions (stage 2) - Alexandra Parade, Victoria Parade (east of ACU) AND Fitzroy West

Reference	D21/25744
Author	Joerg Langeloh - Project and Policy Coordinator
Authoriser	Director Planning and Place Making

Purpose

1. The purpose of the report is for Council to consider requesting that the Minister for Planning, in accordance with Section 8 (1) (b) and 20 (4) of the *Planning and Environment Act 1987*, to introduce 'Interim' *Design and Development Overlays* (DDOs) to land along Alexandra Parade, Victoria Parade (east of ACU) and Fitzroy West

Critical analysis

History and background

Managing Growth in Yarra's activity centres

2. Demand for housing within the City of Yarra is high due to its proximity to employment opportunities, heritage character and cultural offerings.
3. This has led to increased levels of planning applications for multi-dwelling and commercial developments. This trend is supported by state and local policy that directs higher density housing and employment opportunities towards activity centres.
4. *Plan Melbourne* and the *Yarra Planning Scheme* generally direct job and housing growth towards major activity centres and to a lesser degree towards neighbourhood activity centres. The planning system in Victoria generally expects that these major activity centres accommodate a higher rate of change than other areas.
5. Activity centres are defined by state policy as community hubs where people shop, work, meet, relax and live. They should provide a broad range of goods, services and diverse offerings, focusing on mixed-use development including retail, commercial and residential, and should be well connected by transport modes. These centres support local economies and the development of 20-minute neighbourhoods outlined in *Plan Melbourne*.
6. Council and the Yarra community places great importance on planning controls to better manage change and provide as much certainty as possible for future development outcomes. This includes ensuring a balance between maintaining heritage fabric in Yarra's activity centres and protecting sensitive residential interfaces whilst guiding new development.
7. To address these issues, Council has been undertaking a program of preparing built form frameworks for its activity centres to enable the introduction of the interim *Design and Development Overlays* (DDOs) in the Yarra Planning Scheme, while permanent built form provisions are progressed. This work is well progressed in:
   (a) Johnston Street (permanent provisions gazetted by the Minister for Planning (Minister));
   (b) Queens Parade (permanent provisions for Parts 1 and 3 gazetted by the Minister);
   (c) Swan Street (interim provisions in place; and permanent provisions currently being considered for approval by the Minister);
   (d) Bridge Road and Victoria Street (interim provisions in place, and strategic work underway to inform permanent provisions);

(e) Collingwood South (interim provisions in place);

(f) Heidelberg Road (interim provisions currently being considered for approval by the Minister); and

(g) Fitzroy and Collingwood Stage 1 (interim provisions for Brunswick, Smith, Johnston and Gertrude Streets and Mixed Use Zone areas behind those corridors and in Fitzroy East are currently being considered for approval by the Minister).

Fitzroy and Collingwood Activity Centres

8. The Fitzroy and Collingwood activity centres are important for Yarra and inner Melbourne. They host a variety of employment, cultural and housing opportunities and they are known for their heritage retail strips and former industrial history. The area has transitioned from its industrial past to an area characterised by its vibrant retail, hospitality and arts and culture scene, with greater levels of residential and some office developments.

9. Within Fitzroy and Collingwood, there are several overlapping activity centres and mixed use areas. They include the Brunswick Street and Smith Street Major Activity Centres, the Johnston Street and Gertrude Street Neighbourhood Activity Centres and Mixed Use Zone areas in Fitzroy East and adjacent to the major corridors.

10. These areas were part of a first stage (Stage 1) of Yarra's built form program for Fitzroy and Collingwood (refer to Figure 1). These proposed interim provisions were informed by comprehensive background work, including independent urban design, heritage and traffic advice. On 19 December 2019 Council resolved to request interim DDOs from the Minister for stage 1. A decision on the request has not been made yet.

11. Stage 2 (subject of this report), includes the Fitzroy West Mixed Use zone area and the boulevards of Victoria Parade and Alexandra Parade (refer to Figure 1). Next to the activity centres, these areas are also experiencing increased development pressure, however, the Yarra Planning Scheme currently provides limited guidance about the preferred built form outcomes, including building heights and setbacks.

12. The introduction of interim DDOs into the Yarra Planning Scheme would fill the gap in policy in these areas and provide strong guidance for new developments.

13. Table 1 should be read in conjunction with Figure 1 to clearly illustrate the precincts and their stage of preparation.

Table 1: Built Form Control – Stages

Stage	Precinct
Stage 1 Precincts – completed, interim provisions currently being considered by the Minister for Planning.	Brunswick Street Precinct (**B**) Town Hall Precinct (**TH**) Fitzroy East Precinct (**FE**) Gertrude Street Precinct (**G**) Johnston Street – west of Smith Street (**J**) Smith Street (**S**)
Stage 2 Precincts – subject of this report.	Alexandra Parade (**A**) Victoria Parade (**V**) Fitzroy West (**FW**) Note: Collingwood Mixed Use (North) (**CN**) is proposed to be included within a separate stage as it is subject to the outcome of a Victorian Heritage Register application.

Figure 1: Built Form Control – Fitzroy and Collingwood Study Area and Precincts

Discussion

Study Area

14. The current stage 2 work covers the remaining 3 precincts in the Fitzroy and Collingwood Study Area - the major boulevards of Alexandra Parade and Victoria Parade to the north and south, and the mixed use precinct of Fitzroy West (see Fig 2 below).

Figure 2: Stage 2 - Precinct Boundaries Map

Approach

15. The interconnected nature of the Fitzroy/Collingwood activity centres, mixed use precincts and corridors means they are unique in comparison to other retail strips within inner Melbourne. A more holistic approach was taken to respond to the inter-relationship across the centres. This allowed the recognition of commonalities and differences between the areas.

16. Council commissioned 'Hansen Partnership' in association with 'GJM Heritage Consultants' and 'Traffix Group' to prepare a range of strategic work to underpin the introduction of interim DDO schedules for the precincts in Stage 2.

17. As per the built form work in Stage 1, the proposed built form provisions for Stage 2 have been informed by comprehensive strategic work (see Figure 3 for an overview), which included:

    (a) overarching background documents analysing existing conditions, current built form, heritage fabric and traffic matters;

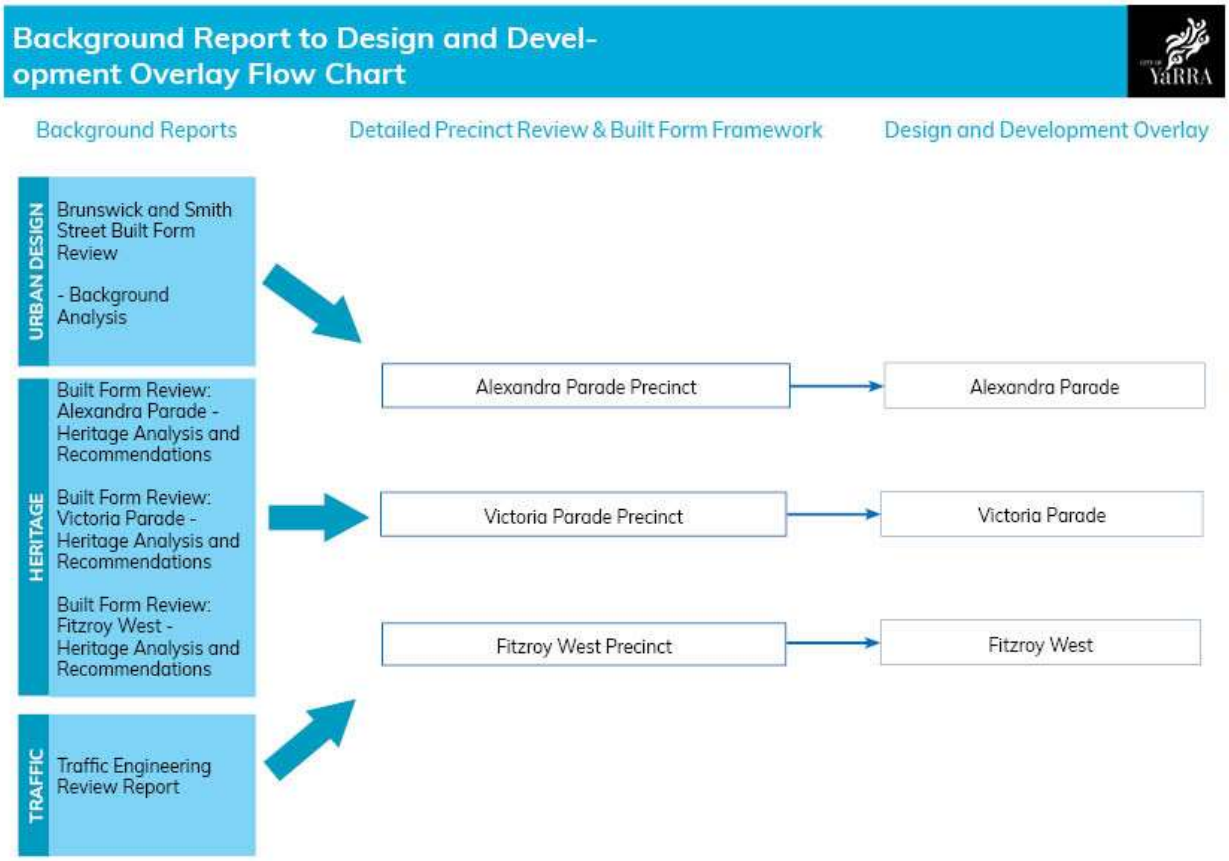
    (b) detailed 'Built Form Frameworks' to provide specific context analysis, framework plans and built form provision recommendations;

    (c) consideration of recent planning applications, Victoria Planning Panel recommendations and Victorian Civil and Administrative Tribunal (VCAT) decisions; and

    (d) substantial testing of different options using cross sections and 3D-modelling.

18. Officers then translated the recommendations from the three individual Built Form Frameworks, heritage and traffic reports into three schedules to the DDO. The schedules draw on character distinctions found in the Built Form Frameworks.

Figure 3: Fitzroy/Collingwood Stage 2 Activity Centres Built Form Work Overview



Brunswick and Smith Street Built Form Review – Background Analysis Report

19. Hansen Partnership, with specialist advice from GJM Heritage Consultants and Traffix Group, prepared the *Brunswick and Smith Street Built Form Review – Background Analysis Report.*

20. The *Background Analysis Report* provides a detailed analysis on existing conditions (including policy, physical attributes, and recent development trends) across the entire study area for both Stages 1 and 2. It reviewed existing conditions and identified the general direction of a *preferred* future built form character for each Built Form Framework precinct.

21. The document assisted in identifying appropriate ways to accommodate growth and change within the retail corridors, boulevards and mixed use areas. A set of overarching principles guided the preparation of the subsequent Built Form Frameworks.

Heritage Advice

22. GJM Heritage were engaged to provide heritage advice to inform the Built Form Frameworks and prepared the following reports to assist officers in preparing built form provisions and controls for the area:

    (a) *Built Form Review: Alexandra Parade – Heritage Analysis and Recommendations;*

    (b) *Built Form Review: Victoria Parade – Heritage Analysis and Recommendations; and*

    (c) *Built Form Review: Fitzroy West Mixed Use Precinct – Heritage Analysis and Recommendations*

23. The three 'Heritage Analysis and Recommendations' analysed gaps, inconsistencies and inaccuracies with the current heritage controls within Stage 2 and provided recommendations for addressing these issues. It considered the built form parameters that are required to ensure the values of the heritage places in the three precincts are appropriately managed and protected. The advice promotes good heritage outcomes being achieved for development on land subject to, or abutting, the Heritage Overlay.

24. The heritage advice has informed Hansen's Built Form Frameworks and ensured that DDO provisions appropriately respond to heritage fabric and values within Alexandra and Victoria Parades and the Fitzroy West Mixed Use Precinct. This combined work has had a strong influence on the proposed street wall heights, building setbacks and building heights in the proposed DDOs.

Traffic Advice

25. Traffix Group prepared a Traffic Engineering Assessment that informed the development of the DDOs. It focussed on identifying changes required to achieve safe and efficient vehicular and pedestrian access as the area is developed in accordance with the built form requirements.

Precinct Review and Built Form Frameworks

26. Hansen Partnership, in association with GJM Heritage Consultants, subsequently prepared three 'Built Form Frameworks' for the Stage 2 precincts.

27. The Built Form Framework reports provide the strategic justification and evidence (alongside other reports) needed to enable the Minister to consider a request to prepare and approve interim DDO schedules. They would provide the basis for the preparation of future permanent planning controls.

Interim Design and Development Overlay Schedules

28. The 'Precinct Review and Built Form Framework Reports' for Victoria and Alexandra Parades include some allotments fronting the corridors that are currently zoned General Residential Zone (GRZ), Schedules 1, 3 and 4. As the GRZ, and its respective schedules, already guide future development, including overall heights and Clause 54 or 55 requirements, the decision was made to not include them in the respective DDO areas.

29. The recommended *interim* provisions provide a balance between heritage, sensitive residential interfaces and guiding change across the activity centres.

30. Heritage matters have been considered strongly in preparing the proposed interim DDO's. It means that strong built form provisions are proposed to protect the heritage character of the precincts with the majority of change concentrated in a few areas only, in locations with few heritage constraints.

31. Each DDO schedule has been tailored to address the unique built form typologies, heritage and character of that precinct. Table 2 provides a summary of the proposed future scale each in the proposed interim DDOs for each precinct.

Table 2: Proposed DDO Precinct Summary of Future Scale

DDO Schedule	*Summary*
Alexandra Parade (DDO38)	• This precinct generally comprises land with a primary frontage to Alexandra Parade between George Street in the west and Hoddle Street in the east. The northern side of the Parade is defined by the extent of Commercial 2 Zone and Mixed Use Zone. The southern side reflects equally diverse zoning designation, comprising Commercial 1 Zone, Commercial 2 Zone and Mixed Use Zone. (Refer to Figure 2) • The Alexandra Parade boulevard is defined by a wide road profile and tree-lined central median. The Clifton Hill Shot Tower (Municipal Landmark) is a key feature of Alexandra Parade, maintaining views to the Shot Tower is a clear consideration for the future scale. The precinct is further characterised by varied lot sizes and inconsistent built forms with regards to age, height and style. • Future development along Alexandra Parade would confine taller buildings to the eastern and western ends of the precinct on larger allotments compromising non-contributory buildings. Development in the centre of the precinct and surrounding the Shot Tower would maintain key views to the Municipal Landmark. (Refer to Figure 4)
Victoria Parade (DDO39)	• This precinct comprises land subject to the Commercial 1 Zone on the northern side of Victoria Parade between Napier Street to the west and Hoddle Street to the east. (Refer to Figure 2) • Victoria Parade is a grand boulevard comprising a broad central median with tram tracks and established street trees which creates a strong public realm condition. • To the west of Wellington Street a finer grained subdivision pattern accommodating rows of traditional Victorian terraces is found, some being listed on the Victorian Heritage Register. East of Wellington Street, Victoria Parade is dominated by a mix of lot sizes and highly varied built form, including commercial buildings on large lots. There are minimal heritage buildings found to the east of Wellington Street. • The intent of this precinct is for future development along the western end of Victoria Parade to respect the valued and prominent heritage fabric. The eastern end of the boulevard forms part of one of Yarra's major employment precincts (known as the Gipps Street precinct) as identified in proposed local planning policy in the current planning scheme amendment C269. This area would provide opportunity for higher development as part of the employment precinct. (Refer to Figure 4)
Fitzroy West (DDO40)	• This precinct covers land subject to the Mixed Use Zone and Commercial 2 Zone between Nicholson Street in the west and to the rear of lots to Brunswick Street in the east. The study area extends north south between the rear lots of Johnston Street and properties with a frontage to Alexandra Parade at the corner of Nicholson Street. (Refer to Figure 2)

	• The Fitzroy West precinct is an eclectic area, comprising a network of narrow one-way streets and wider, tree lined streets in combination with a mix of building typologies. It is defined by clusters of attached traditional Victorian terraces of one and two storeys, larger heritage and non-contributory buildings, recent warehouses as well as scattered Victorian retail and commercial forms. • Future development in the Fitzroy West precinct needs to strongly relate to its heritage fabric and street profile. It should be framed by a variety of low-rise heritage and mid-rise contemporary infill on larger allotments. • Recommended building heights for the Fitzroy West precinct would support lower- to mid-rise development ranging from 3 to 6 storeys with a few minor sites which can accommodate up to 7 and 8 storeys. (Refer to Figure 4)

Figure 4: Stage 2 General Heights Map

32. The content of the proposed interim DDOs have considered and been guided by the key directions from Amendments C220 (Johnston Street), C231 (Queens Parade) and C191 (Swan Street). They follow the approach taken as per Stage 1 interim DDOs in Amendment C270.

Built Form Design Controls within the DDOs

33. The DDO schedules provide guidance on building heights, street wall heights, upper level setbacks, front setbacks, rear setbacks, building separation and access and movement.

34. Key proposed built form requirements are summarised below in Table 3. The proposed 'metrics' are summarised in Table 4.

Table 3: Proposed Built Form Requirements

Built Form Requirements	**General Description of Proposed Elements**
Street wall	• Retain the existing heritage street wall along streets. • Infill development must match the height of the adjacent heritage street wall to achieve a consistent heritage street wall. • New development would "turn a corner" and apply the same street wall height for a minimum distance along the side street. • *Mandatory* controls are proposed to areas with consistent heritage street walls to ensure this significant element of the street is retained. This is reflected in *DDO39 – Victoria Parade*. • Areas where there is limited heritage consistency, a new street wall would be created.
Upper level setbacks	• The recommended upper level setbacks ensures development does not overwhelm the heritage buildings and that the heritage streetscape remains a prominent and defining element of the Fitzroy/Collingwood areas. • Upper levels should avoid a stepped form. Certain heritage places may require a stronger setback, depending on the individual heritage building and development proposal. • Development within or adjacent to land subject to the Heritage Overlay would generally be required to provide for a 6m *preferred* setback behind the street wall. • In areas with consistent heritage character a *mandatory* 6m setback is proposed for: o *DDO38 Alexandra Parade* (heritage buildings); o *DDO39 Victoria Parade* (land subject to or immediately adjacent to a HO along Victoria Parade and Wellington Street). o *DDO40 Fitzroy West* (heritage buildings) • *Preferred* (that is, discretionary) 3m upper level setbacks apply towards side streets.
Overall building heights	• The heights have been determined through an analysis of heritage values, lot depths, rear interface conditions and other built form elements (see Figure 4 – General Heights Map and Attachment 8). • *Mandatory* maximum height controls are proposed in *DDO40 – Fitzroy West* to Victorian terrace buildings within the Heritage Overlay, where there are consistent heritage streetscapes and are recommended to reduce the visual impact of new development and better respect the heritage significance of the heritage forms. • For areas with less heritage consistency *preferred* (discretionary) height

	provisions being more suitable. • *Alexandra Parade, Victoria Parade and Fitzroy West* Schedules include a set of criteria that a development would need to comply with to exceed the *preferred* height limit. New development would need to achieve: o increased separation distances; o higher ESD standards; o increased private and communal open space; o housing diversity; and o no additional amenity impacts to residentially zoned properties.
Rear interface and heights and setbacks	• DDOs address residential interfaces through boundary wall heights and building setbacks at the rear. • Rear interface heights are determined by the adjacent zone and whether a laneway separates the properties from the proposed DDO area. • These heights are *preferred* (discretionary) to accommodate the vast variety of conditions on adjacent sites that are too numerous and varied to be expressed definitively in a DDO. These include topography changes, changing floor to ceiling heights in heritage buildings and garages/outbuildings to the rear of residential properties outside of the overlay areas. • A maximum 8m boundary wall height is proposed for sites abutting properties in the Neighbourhood Residential Zone (NRZ) and General Residential Zone (GRZ) where there is no lane and 11.2m is proposed for land which abuts a laneway or is in the MUZ. • The assessment of visual bulk and potential overshadowing would also assist in determining the appropriate boundary wall height. • A *mandatory* 45 degree setback envelope for upper levels above the rear interface height is proposed towards residential interfaces. This is to ensure that development provides an appropriate transition to the lower scaled development in adjacent residential zones.
Overshadowing and daylight	• There are a range of provisions that would manage overshadowing and daylight access to public land and sensitive residential land. • *Mandatory* controls regarding limiting overshadowing on the opposite footpaths and kerb outstands between 10am and 2pm at the equinox (Sept) are proposed for main streets, wider side streets and kerb outstands with seating and planting as well as the central median of the two boulevards. • The protection of sunlight to these locations is considered very important to retain quality public spaces to ensure 'life and attraction' at the street level for residents, workers and visitors. • *Preferred* (discretionary) overshadowing and daylight access provisions are proposed referring to: o Clause 55.4-5 for adjoining land within the NRZ and/or GRZ; o Clause 55.4-5 for single dwellings within the MUZ; and o Ensure adequate daylight access to habitable room windows.
Building layout	• The retention of commercial activity is integral to the vibrancy of these centres. • The schedules include provisions to ensure shop widths are not reduced to the extent they become commercially unviable and to incorporate floor to floor heights suitable for commercial activity (4m) at ground level, where heritage is not a constraint.

Common boundary and building separation	• To reduce the need for screening, allow for daylight access and create views to blue sky between buildings when viewed from the street, minimum setbacks are proposed at upper levels between buildings: o 4.5m to a balcony or living room window; and o 3m to a commercial or non-habitable window.
Heritage	• The schedules include heritage design requirements which address upper level setbacks, design of upper levels and façade design. • They are included to guide decision-making for commercial and industrial buildings, at least until such time as the heritage policy in Clause 22.02 is amended through Amendment C269, to more comprehensively address industrial, commercial and retail places. • The proposed 'Interim' provisions provide for strong heritage protection through the above mentioned requirements on: o street wall height; o overall height; o façade design requirements; o upper level visibility; and o retaining heritage fabric and avoiding heritage facadism. • Heritage consideration has played a strong role in determining the proposed requirements to limit visibility and to retain the heritage character of streetscapes.

Table 4: Proposed Precinct Specific Control Metrics

DDO Schedule	***Street Wall***	***Upper Level Setback***	***Building Heights***	***Rear Boundary Wall Height***
DDO38 – Alexandra Parade	**Discretionary** See Map 1 & 2, Attachment 8. Match the parapet height of the adjacent heritage building to the width of boundary or 6m, whatever is less.	**Mandatory** 6m for heritage buildings. **Preferred (discretionary)** 6m for sites immediately abutting land subject to the HO. 6m minimum for non-contributory sites on the northern side of Alexandra Parade and Cecil, Council George, Gore and Smith Streets. 3m minimum for all other non-contributory sites. Upper levels above Noone Street should be visually limited from the opposite footpath. 3m minimum for side streets.	**Discretionary** See Map 1 & 2, Attachment 8. Ranging between 11.2m (3 storeys) to 33.6m (10 storeys).	**Discretionary** See rear controls Table 3
DDO39 – Victoria Parade	**Mandatory** Street wall height within or adjacent to HO, match parapet height of adjacent heritage building to the width of	**Mandatory** Minimum 6m for land subject to or immediately adjacent to a HO along Victoria Parade and Wellington Street	**Discretionary** See Map 1 & 2, Attachment 8. Ranging	**Discretionary** See rear controls Table 3

DDO Schedule	***Street Wall***	***Upper Level Setback***	***Building Heights***	***Rear Boundary Wall Height***
	boundary or 6m, whatever is less. **Discretionary** See Map 1 & 2, Attachment 8.	**Discretionary** 6m minimum for all other sites. 3m minimum for side streets.	between 11.2m (3 storeys) to 40m (12 storeys, highest levels being limited from view).	
DDO40 – Fitzroy West	**Discretionary** See Map 1, Attachment 8. Match parapet height of adjacent heritage building to the width of boundary or 6m, whichever is less.	**Mandatory** 6m minimum from principal street frontage of heritage buildings. **Discretionary** 6m minimum from secondary street frontage of heritage buildings on corner sites. 6m minimum for non-contributory sites fronting Alexandra Parade and Nicholson, Cecil, Westgarth, Kerr and Argyle Streets and key corners at intersections. 3m minimum for non-contributory sites fronting Rose, Fitzroy, Spring and Henry Streets. 3m minimum for side streets.	**Mandatory** Victorian terraces within the HO - 11m/3 storeys. See Attachment 8. **Discretionary** See Map 1, Attachment 8. Ranging between 11.2m (3 storeys) to 27.2m (8 storeys).	**Discretionary** See rear controls Table 3

Mandatory Controls

35. All three DDO schedules include *some* proposed mandatory controls which address elements most important to the respective locale, such as building heights, setback and street wall height.

36. Guidance of the application of 'mandatory controls' is provided in the State Government *Planning Practice Note 59 and 60. Planning Practice Note 60* details that mandatory height and setback controls would only be considered in 'exceptional circumstances', where they are absolutely necessary to achieve the built form objectives or outcome identified within a comprehensive built form analysis.

37. Council officers have considered the Planning Practice Notes in the application of mandatory controls. Specifically the Practice Notes requires that mandatory controls must: be underpinned by comprehensive strategic work; consistent with state policy; take into consideration recent development activity; and provide capacity to accommodate growth.

38. It is considered that the extensive strategic work undertaken should provide sufficient justification for the use of some particular *mandatory* controls in the interim DDO schedules.

39. It is important to note that the application of mandatory controls has been carefully considered and applied selectively and are not proposed to apply across all precincts and/or to all requirements within the DDO schedules.

Collingwood North

40. One precinct (Collingwood North) has not been included as part of the suite of DDO schedules being proposed as there is currently an application being considered by Heritage Victoria for the development of the Police Warehouse building located along Wellington Street. Once a decision is made by Heritage Victoria, work would be completed on the strategic evidence for a DDO on that precinct.

Options

41. There are two options for Council:

    (a) request the Minister for Planning for the introduction of three *interim* DDO schedules into the Yarra Planning Scheme under Section 8(1) b and Section 20(4) of the *Planning and Environment Act 1987;*

    or

    (b) undertake the full amendment process to seek permanent provisions in Alexandra Parade, Victoria Parade and Fitzroy West.

    NB. This option would require a longer process, expected to take a minimum of 18 months leaving the study area without built form provisions for an increased time period.

42. Interim DDO provisions are applied without community consultation, usually via a request for a Ministerial Amendment (under Section 20(4) of the *Planning and Environment Act 1997*). These (once approved by the Minister) form a holding position while the *permanent* provisions go through a full amendment process, including public exhibition and the ability to make submissions to an independent Planning Panel.

43. Interim provisions are usually applied for a set period of time – usually two years. Council can apply for an extension of the interims, but must be able to demonstrate that it has made progress on introducing permanent provisions.

44. It is ultimately the Minister for Planning who can provide approval for Interim DDO's, and any extensions to the Interim DDO's.

45. Officers recommend that Council undertake **Option A** as outlined above – seek Interim provisions at this point in time.

46. It is likely that the interim DDO schedules would expire after 2 years. During this time Council can progress permanent DDO schedules in a separate amendment, or possibly via a Standing Advisory Committee process that Council considered at its meeting on 2 March 2021.

47. The community would have an opportunity to submit during the processes seeking to introduce the permanent DDO schedules into the planning scheme.

48. The option of seeking Interim provisions firstly is consistent with the approach taken with Stage 1 and would provide increased certainty to the community. That is, it would come into effect sooner than a full amendment process to guide development in Alexandra Parade, Victoria Parade and Fitzroy West.

Community and stakeholder engagement

49. No formal external consultation has been undertaken to inform the draft 'Interim' DDO schedules; and there would be no formal statutory opportunity for the community to submit on the draft interim DDO schedules before it is submitted to the Minister for Planning.

50. Council has undertaken extensive consultation with the community through Amendments C220 (Johnston Street), C231 (Queens Parade) and C191 (Swan Street). The drafting of the interim DDO schedules for this Stage 2 proposal have been informed by those Amendments.

51. The community would have the opportunity to submit on the permanent DDO schedules as part of a planning scheme amendment that seeks to introduce permanent provisions. The Planning and Environment Act 1987 establishes an extensive public consultation process with minimum statutory requirements.

52. The strategic background reports and DDOs have been prepared with input from Council's Urban Design, Strategic Planning and Statutory Planning teams and Council's Senior Heritage Advisor.

Policy analysis

Alignment to Council Plan

53. The request to introduce 'Interim' DDO schedules for the Fitzroy/Collingwood activity centres also supports the following strategies in the Council Plan:

    (a) *4.2 Actively plan for Yarra's projected growth and development and advocate for an increase in social and affordable housing; and*

    (b) *4.3 Plan, promote and provide built form and open space that is accessible to all ages and abilities.*

Climate emergency and sustainability implications

54. The 'Interim' DDOs would seek to best manage the redevelopment of the land, this would provide an opportunity to address climate emergency objectives:

    (a) opportunity for greater levels of sustainability through the redevelopment of land in keeping with Council's ESD policy; and

    (b) facilitate sustainable communities that are walking distance to sustainable transport options, employment and services.

Community and social implications

55. There are no specific social implications for requesting the Minister for Planning to introduce interim DDO's, that approach seeks to provide increased certainty to the community around future built form in the area outlined in this report.

Economic development implications

56. There are no economic implications for requesting the Minister for Planning to introduce interim DDOs to the areas outlined in this report.

57. Planning provisions exist to manage development opportunities.

Human rights and gender equality implications

58. There are no known human rights implications for requesting the Minister for Planning to introduce 'Interim' DDOs to the areas outlined in this report.

Operational analysis

Financial and resource impacts

59. The statutory request fee is accounted for in the strategic planning budget.

Legal Implications

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

Conclusion

61. Three *Heritage Built Form Reviews* and three *Built Form Frameworks* have been prepared and provide built form recommendations for the future development in the Fitzroy/Collingwood precincts of Alexandra Parade, Victoria Parade and the Fitzroy West Mixed Use Zone area.

62. The reports' recommendations seek to balance the need to accommodate growth and development in activity centres with the strong heritage values and sensitive residential interfaces.

63. The introduction of 'Interim' provisions as detailed in the three DDO schedules (Attachment 8) into the Yarra Planning Scheme would improve planning provisions across the precinct and provide greater planning certainty.

64. Interim DDOs, (once approved by the Minister), would form a holding position while the proposed *permanent* provisions go through a notification process and review by a Panel or an Advisory Committee.

65. Whilst no formal community consultation has been undertaken on the recommended 'Interim' DDO schedules, the community would have an opportunity to submit during formal exhibition processes to introduce permanent DDO schedules into the planning scheme.

66. It is recommended that Council now resolve to seek interim planning scheme provisions, from the Minister for Planning for the 3 areas subject to this report, as a means of seeking to manage development pressure and to steer development activity.

RECOMMENDATION

1. That council:

   (a) notes the officer report and attachments for the Fitzroy-Collingwood Stage 2 interim built form provisions for Alexandra Parade, Victoria Parade and the Fitzroy West Mixed Use Zone area;

   (b) adopts for the purpose of supporting the amendment request, the three individual Precinct Review and Built Form Framework reports, supporting Heritage Analysis and Recommendations and the Traffic Engineering Assessment prepared by Hansen Partnership, GJM Heritage and Traffix Group at **Attachments 1 to 7**;

   (c) requests the Minister for Planning in accordance with sections 8(1)(b) and section 20(4) of the *Planning and Environment Act* 1987 to introduce Design and Development Overlay Schedules 38, 39 and 40 on an interim basis into the Yarra Planning Scheme (**Attachment 8**);

   (d) authorises officers to consult with the Minister, in accordance with sections 8(1)(b), 20(4) and 20(5) of the Act, to assist the Minister to prepare, adopt and approve the Amendment; and

   (e) authorises the CEO to make any minor adjustments required to meet the intent of the above resolution.

Attachments

1⇩ Attachment 1 - Alexandra Parade Built Form Framework

2⇩ Attachment 2 - Victoria Parade Built Form Framework

3⇩ Attachment 3 - Fitzroy West Built Form Framework

4⇩ Attachment 4 - Alexandra Parade Heritage Review V2

5⇩ Attachment 5 - Victoria Parade Heritage Review V2

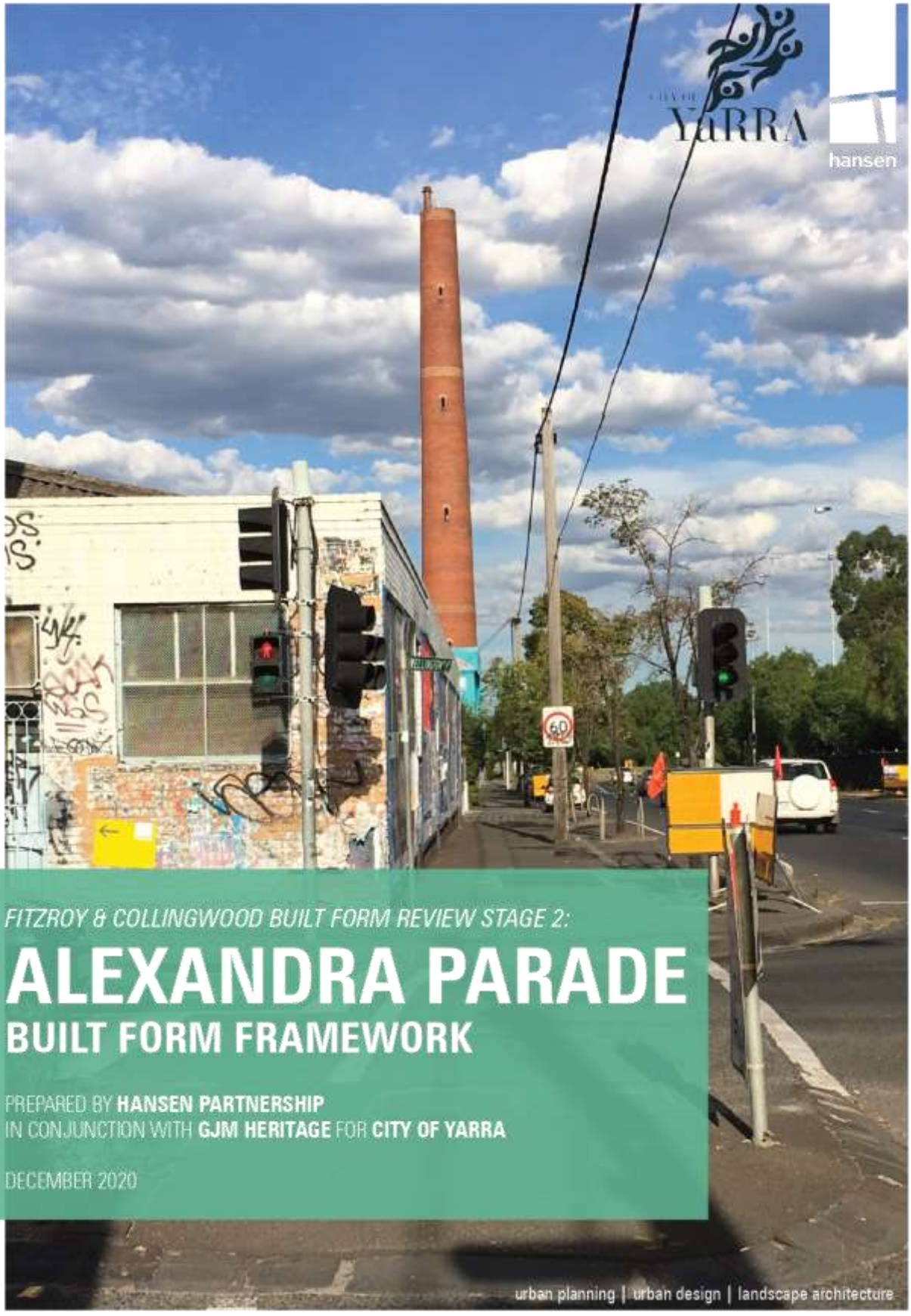
6⇩ Attachment 6 - Fitzroy West Heritage Review V3

7⇩ Attachment 7 - Traffic Engineering Assessment

8⇩ Attachment 8 - DDO38, DDO39 and DDO40 Final V2

9⇩ Attachment 9 - Statutory Documentation Final

Attachment 1 - Attachment 1 - Alexandra Parade Built Form Framework



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** Note: This Draft document is a part of a broader Built Form Review for the Brunswick Street and Smith Street Activity Centres : Built Form Review. It is a component of a broader body of work that sets out a future proposition for two of Yarra's key Activity Centre spines and their adjoining mixed use precincts.*

Preamble

The following urban design report has been prepared for the City of Yarra as the basis for urban design vision for the Alexandra Parade precinct. It sets out a preferred built form framework underpinned by an integrated urban design and heritage assessment.

The report has been prepared by a multidisciplinary team comprising Hansen Partnership (Urban Design) and GJM Heritage (Heritage) with the support of the City of Yarra's internal working group.

The study area is identified in Figure 1.

This report sets out the rationale for proposed built from controls for Alexandra Parade and is underpinned by key components, namely:

Part 1: Alexandra Parade Context

Part 2: Alexandra Parade Precinct - Influences

Part 3: Alexandra Parade - Built Form Proposition

Part 4: Recommended Controls

The report is part of a broader Built Form Review.

Oblique View of the Alexandra Parade Study Area and Surrounding Context

Attachment 1 - Attachment 1 - Alexandra Parade Built Form Framework

PART 1: ALEXANDRA PARADE CONTEXT

The Brunswick Street and Smith Street Built Form Review is a broader urban design program to set a clear framework for future change within two of Yarra's key Activity Centres and their adjoining Mixed Use areas. Planning policy identifies such Activity Centres as areas for accommodating growth and change.

Therefore, these are the areas that must be carefully planned and managed in order to accommodate progressive change while protecting (or indeed enhancing) existing established character and heritage values.

Stage 1 of the project was initiated in May 2017 and encompasses large areas bound by Alexandra Parade (to the north), Victoria Parade (to the south), Wellington Street (to the east) and Nicholson Street (to the west).

Stage 1 of the project comprised the preparation of Built Form Frameworks for Gertrude, Brunswick and Smith Streets in 2019. Johnston Street Precinct and Fitzroy East Precinct reports were completed in June 2019 and the Collingwood Precinct report was prepared in June 2018.

As part of the the Stage 1 process, extensive analysis of the existing conditions was undertaken and documented within an overall Background Report. This comprehensive analysis identified and divided the overall Review Area into ten 'place- specific' precincts. Furthermore, a series of guiding objectives were identified to be contemplated across ten defined precincts.

This report addresses the **Alexandra Parade Precinct** (Figure 1 overleaf). A key consideration in the preparation of a Detailed Review for Alexandra Parade relates to its proximity to the Smith Street MAC and its role as a movement conduit. Importantly, uninterrupted views towards the Shot Tower (Municipal Landmark) can be experienced at various locations along the Alexandra Parade corridor. Two separate reports were also prepared for Fitzroy West 'Mixed Use Area' Precinct and the Victoria Parade 'Boulevard' Precinct in 2020 (as part of Stage 2).

1.1 Overarching Built Form Objectives

The following 8 objectives have been identified for the Brunswick and Smith Streets Built Form Review:

Objectives:

1. Recognise and carefully manage potential in key areas within the Activity Centres.
2. Highlight the character distinctions between the different retail Streets and mixed use precincts within the Activity Centres.
3. Reinforce the traditional Victorian cityscape of heritage Streetscapes as dominant elements, including significant corner elements and identified local landmarks.
4. Ensure continued diversity through sensitive infill within traditional Victorian Streetscapes.
5. Shape the retail Streets and mixed use areas to ensure high quality, people-oriented public realm.
6. Ensure development encourages walking, cycling and public transport usages through layout and design responses.
7. Ensure new development is sustainable and adaptive over time.
8. Manage the built form profile of new development to avoid adverse impact to surrounding areas, including heritage places, Streetscapes and residential interfaces.

The Clifton Hill Shot Tower rising above fine grain residential and commercial warehouse forms (viewed from Wellington Street)

10 Precincts

The 10 precincts within the Brunswick & Smith Street Built Form Review are:

Stage 1 (May 2017 to November 2019)

- Precinct 1: Brunswick Street (B);
- Precinct 2: Smith Street (S);
- Precinct 3: Gertrude Street (G);
- Precinct 4: Johnston Street (J);
- Precinct 6: Fitzroy East (FE);
- Precinct 7: Collingwood (C);
- Precinct 8: Town Hall (TH);

Stage 2 (Commenced February 2020)

- Precinct 5: Fitzroy West (FW);
- Precinct 9: Alexandra Parade (A); and
- Precinct 10: Victoria Parade (V).

This report addresses **Precinct 9: Alexandra Parade.**

1.2 Brunswick & Smith Built Form Precincts

Based on the initial analysis phase of the project the following Precincts were identified spatially as relatively coherent parts. The Precincts are largely defined by function as either:

- An Activity Spine;
- A Mixed Use Area; or
- A Boulevard.

Activity Spines

The Activity Spines are defined by the 'traditional' retail and commercial functions along the four main streets within the review area of:

- Brunswick Street;
- Smith Street;
- Gertrude Street; and
- Johnston Street.

Mixed Use Areas

The Mixed Use Areas are defined by the mixed use functions present in the non-residential land located generally in local streets, behind the Spines. The four renewal areas within the review area are:

- Fitzroy West;
- Fitzroy East;
- Collingwood; and
- Town Hall.

Boulevards

The Boulevards are the non-residential land to the northern and southern edges of the review area which front the broad road corridors of:

- Alexandra Parade (this report); and
- Victoria Parade.

Attachment 1 - Attachment 1 - Alexandra Parade Built Form Framework

PART 2: PRECINCT INFLUENCES

As one of Yarra's main boulevards, Alexandra Parade forms defining edges to some of Yarra's neighbourhoods (Fitzroy North, Clifton Hill, Fitzroy, Collingwood) including some of its premier Major Activity Centres along Smith and Brunswick Streets. It is anchored by major north-south movement corridors including Hoddle Street to the east and Nicholson Street to the west. The study area itself terminates at the intersection of Alexandra Parade and Brunswick Street.

Alexandra Parade is not a designated activity centre in the Yarra Planning Scheme. However, its western end is well-serviced by good public transport and community infrastructures, particularly around its key junctions with Brunswick Street and Smith Street.

The extent of the Alexandra Parade Precinct is set out in Figure 2 and described below.

Boundary Description

This precinct generally comprises land with a primary frontage to Alexandra Parade between George Street in the west and Hoddle Street in the east. The northern side of the Parade is defined by the extent of C2Z and MUZ with some NRZ and GRZ. It is noted that sites currently in NRZ and GRZ (including the Office of Housing site at 43 Noone Street) will continue to be guided by existing residential provisions. They are included to ensure they inform future directions for the study area. The southern side reflects equally diverse zoning designation, comprising C2Z, C1Z and MUZ.

Built Form Character

The Alexandra Parade boulevard corridor is defined by a wide road profile and tree-lined central median. Varied existing built forms reflect its land use and zoning designation with some allotments affected by Heritage Overlay. Larger, low rise warehouses and mid-rise contemporary commercial development adjacent to low rise, fine-grained residential is commonly found. Current built form profile contributes to an open, exposed environment that is dominated by roadway. Given existing low rise building profiles along Alexandra Parade, the full width of the road reserve (60m, or greater) can be appreciated from any point within the public realm.

The skyline of North Fitzroy, Clifton Hill and some of Collingwood are predominantly characterised by low rise heritage forms, taller landmarks and institution buildings (ie. the Shot Tower, St John's Church Spire, Collingwood Town Hall), high rise Office of Housing structures and remnant industrial silos. The recent redevelopment of strategic redevelopment sites (ie. recent developments at the northern end of Smith Street) and predominantly mid-rise development in Activity Centres have generally maintained this skyline effect. Approvals for taller mixed-use developments including upper-level apartments are yet to be constructed, including at and around the Gasworks Site. While the corridor is generally varied and mixed in character, it presents several pockets of larger sites accommodating warehouses found both along the Parade, as well as in the adjacent 'back blocks'.

The Alexandra Parade Boulevard with the evolving Smith Street Activity Spine forming the background

2.1 Foundations

Setting a vision for the Alexandra Parade Precinct must be underpinned by an understanding of the diverse physical conditions, including the fabric of existing and approved developments,the pattern of heritage forms, critical views as well as other relevant considerations which form the 'foundations' of a future built form framework and development recommendations. This is illustrated in Figure 3 and can be described as follows:

Views to Clifton Hill Shot Tower (Municipal Landmark)

The Clifton Hill Shot Tower is a VHR listed Municipal Landmark located at 94 Alexandra Parade (HO85). It represents the tallest vertical element in the local context (65m in height). Views to the Shot Tower are available from within the study area and can be glimpsed from within the broader Fitzroy, Collingwood and Clifton Hill surrounds.

Key viewlines towards the Clifton Hill Shot Tower are identified in the Draft City of Yarra Landmarks Policy Review and the proposed Clause 15.01-2L: Landmarks (Amendment C269 to the Yarra Planning Scheme). The policy review seeks to ensure the visual prominence of the structure is retained, specifically the visibility of at least a third of the structure. Location of primary views are:

- View 1: Brunswick Street and Alexandra Parade intersection;
- View 2: Eastern Freeway (west of the Hoddle Street overpass);
- View 3: Darling Gardens (rotunda).

Secondary views are identified in the supporting documentation - 'Landmarks and Views Assessment' (Ethos Urban, October 2019):

- View 4: Roseneath Street and Hoddle Street intersection; and
- View 5: Gold Street and Queens Parade intersection.

In this built form review, a complementary view additional to the primary and secondary views is identified at north-eastern junction of Alexandra Parade and Hoddle Street (at the pedestrian crossing island refuge). The Shot Tower from this pedestrian crossing, as well as visual prominence of the local landmark in the streetscape is important from a sense of place and wayfinding perspective.

Additionally, the shot tower is visible from other significant heritage landmarks, specifically the Royal Exhibition Building Dome Promenade Deck - anticipated to be open to the public in the near future. It is understood that Heritage Victoria is currently in the process of reviewing the Royal Exhibition Building and Carlton Gardens Wold Heritage Environs Strategy. Protection of viewlines to key heritage landmarks such as the Shot Tower from the Promenade Deck will be determined through that process.

Local Landmarks

Like many main roads and boulevards, Alexandra Parade comprises a number of local landmarks which act as wayfinding elements along the length of the Boulevard. These notable buildings display articulated corners which punctuate the streetscape with distinguishing architectural features. Along Alexandra Parade, four of these 'local landmarks' buildings have been identified in collaboration with GJM Heritage.

Shot Tower viewed from the Royal Exhibition Building Dome Promenade Deck

The Shot Tower visible from both the north and south side of the Parade

View toward the Shot Tower from the Smith Street intersection

View toward the Shot Tower from the Brunswick Street intersection

These local landmarks are identified as:

- British United Shoes Machinery Co. Pty Ltd Factory (200 Alexandra Parade, Fitzroy);
- Former Murray Co. Wool Works (457 Hoddle Street, Clifton Hill);
- Gasometer Hotel (484 Smith Street, Collingwood); and
- Fox Hotel (351 Wellington Street, Collingwood).

Heritage

Properties fronting Alexandra Parade (between Budd and Alexander Streets) are subject to Heritage Overlays (HO317 to the north and west and HO321 to the south). It comprises a mix of contributory intact buildings from the Victorian and Edwardian - era including commercial, residential and some industrial fabrics of varying scale. Notable heritage forms include corner hotel buildings (such as the Gasometer and Fox Hotels) and heritage warehouse buildings occupying broad sites such as the local landmarks - British United Shoes Machinery Co. Pty Ltd Factory and Former Murray Co. Wool Works.

There are no predominant features such as traditional street walls that are notable characteristics of other main roads in the City of Yarra such as Smith Street and Brunswick Street. The heritage significance of surrounding low-rise neighbourhoods may influence the future development outcomes of sites that have an immediate or proximate interface to heritage precincts. This includes properties located on side streets that are adjacent to heritage precincts (e.g. Alexander Street). The remaining properties within the study area are not affected by any Heritage Overlays.

Non- contributory sites

There are several non-contributory sites across the precinct. These sites are typically located on corners between rows of heritage fine-grain buildings or have existing approvals for contemporary developments of up to 3 storeys (not constructed). No.45 Alexandra Parade currently accommodates a 4 storey 'walk-up' apartment.

Warehouses

The concentration of warehouses and light industrial uses are dominant along on the northern side of Alexandra Parade on medium to large allotments. The warehouse forms contribute little for street activation on some of the side streets, where often servicing attributes are located away from the high-volume traffic of the Parade. Few of the warehouses within the study area are contributory to the heritage fabric of the Precinct, with the exceptions of the two individually significant local landmark heritage warehouse buildings, bookending the precinct to the east and west. Otherwise, many warehouse buildings represent more contemporary light industrial forms with no heritage value. It is noted that residential and warehouse buildings generally have different heights and profiles due to the different floor-to-ceiling dimensions. For instance, a single storey warehouse may have a comparable height as a double-storey residential building.

Example of heritage warehouse at the corner of Alexandra Parade and Hoddle Street

Adjoining fine grain heritage residential areas such as Budd Street pictured

A non-contributory building between Wellington Street and Charlotte Street

Example of a broad frontage warehouse on the northern side of the Parade

Recent development trends

Recent developments within the study area have seen a significant transformation of sites around the Smith Street intersection, including an 11-storey approval at the Emma Street corner. Opposite, another 11-storey application encompassing several allotments between Smith Street and Reeves Street was recently refused by Council, signalling interest in the redevelopment of the land. Another Other smaller-scale development proposals comprise refurbishments and additions to warehouses north of the Parade.

Several active development proposals are also shaping the edges of the Precinct. This includes the Fitzroy Gasworks site, currently undergoing soil remediation works in preparation of a mixed-use development comprising several buildings upwards of 10 storeys, guided by a Development Plan Overlay (DPO16). Along Smith Street, several developments have recently been constructed or approved for development upwards of 10 storeys. Developments within the Smith Street corridor generally adopt a street wall proportionate to the streetscape with recessed upper levels behind.

Urban Renewal

Recent strategic directions around the western end of Alexandra Parade sought a considerable change around the Gasworks Site, where future mixed-use precinct development comprising taller apartment development, a vertical school, open spaces and a network mid-block linkages (DPO16).

The urban renewal of the urban block west of George Street is also expected to contemplate mid-rise development outcomes as set out in DDO16 (and subsequent Planning Scheme Amendment C231). Despite being located outside the study area, strategic directions for these precincts provide clear guidance for Alexandra Parade urban morphology and what can be anticipated on larger sites within the commercial/light industrial precinct west of Wellington Street. Substantial medium to high-density development is occurring along the corridor, particularly around the Smith Street junction with forms upwards of 10 storeys in scale on the north side of Alexandra Parade.

To the east of Wellington Streets are a mix of low rise residential (up to 4 storeys), commercial and attached industrial warehouses built to the street boundary. This includes the Office of Housing fronting Alexandra Parade, Alexandra Street and Noone Street, comprising 2 storeys attached dwellings arranged around an internal reserve (Alexander Street Reserve).

Recent interim controls along the Johnston Street corridor (DDO37) has sought to adopt a discretionary 8m setback above 11.2m street wall in absence of heritage overlay. Further, building heights are subject to lot depths and specific heritage context. Request for interim DDO37 is currently awaiting Ministerial's approval.

Existing residential forms (single and multi-dwelling) along the Parade are setback from the street boundary, with varied fencing treatments. There is no known development application in this sector, other than recent rezoning at 64 Alexandra Parade East, and its site-specific DDO19 designating a discretionary height limit of up to 25m (8 storeys).

An interface of adjoining Smith Street development to the Alexandra Pde study area

Smith Street allotments north of the Parade set to undergo 11 storey development

Large industrial/commercial allotments north of Alexandra Parade

Topography

The topography is generally flat along the length of the Alexandra Parade corridor. In the broader context, the landform rises towards Queens Parade across the residential environs to the north and towards Collingwood Hill to the south. Historically, Alexandra Parade was a natural watercourse that flowed into the Yarra River. Presently, the Special Building Overlay (SBO) implements measures for mitigating remnant drainage and flooding issues along the Boulevard. The skyline of buildings on the lower plane of the Alexandra Parade Precinct will, therefore, be visible from the view corridors up to the notable hilltop on Queens Parade.

Street width

The study area comprises a clear hierarchy of street widths, contributing to a structured experience and streetscape character. The widest street is the boulevard typology of Alexandra Parade, which generally widens from 60m at the western extent of the study area, to over 100m toward the east near the Hoddle Street intersection. The boulevard typology of Alexandra Parade is defined by a 30m wide grassed median comprising 2 rows of canopy trees. On either side of the median are between 3 traffic lanes and service lanes which are separated further by additional medians at the eastern end.

Other streets feeding into the Alexandra Parade are of a narrower profile (10m to 20m). Due to the legacy of the initial subdivision and development pattern of the precinct, there is limited direct connectivity across Alexandra Parade. Within its local context, side streets (where rear laneways are not available) provide secondary frontage or service access to corner allotments. Narrower side streets accommodate one-way traffic, on-street car parking and narrow footpaths.

Some wider side streets such as Smith, Wellington and Gold Streets traverse through Alexandra Parade with signalised intersections and provide north-south transport, cycling and pedestrian links to activity precincts to the south and broader residential neighbourhood. From place- hierarchy, Smith Street is a priority pedestrian street, noting it provide access to services and public transport.

There are limited pedestrian and cycle crossings over Alexandra Parade – generally at the main junctions of Brunswick Street, Smith Street and Wellington Street. However, other crossings are available at Gold Street and opposite the Fitzroy Pool. This pattern of limited north- south connection and by virtue of the 60m wide boulevard, as well as grassed central median reinforces the distinction between the north and south side of the Parade as different experiences.

The rising landform along Queens Parade

The expansive street profile of the Boulevard

A 20m wide commercial/industrial street north of the Parade

A typical 20m wide perpendicular side street, leading into residential precinct north of the Parade

Boulevard & Green Streets

The boulevard profile is asymmetrical across its entire length with a generally wider carriageway width to the north and wider footpath to the south. Where it begins to transition to the Eastern Freeway. An existing bus network (Route 546) operates at the western end of Alexandra Parade, turning into George Street. The footpath width varies along the length of Alexandra Parade (2.5m to 4m) with additional width at street corners and on the south side. A lane of parallel parking to both sides interspersed with street tree plantings. The pedestrian connection across Alexandra Parade is limited to signalised intersections and a pedestrian crossing.

Complementary to the Boulevard typology is 20m wide north-south green streets including George Street and Gore Street (not signalised) in Collingwood. These streets traverse through Alexandra Parade, connecting neighbourhoods in Collingwood (south) and Fitzroy North. Distinctive to other 'side' streets, green streets benefit from established canopy planting (Plane Trees) on both sides of the road reserves, providing some sense of street enclosure and offering 'borrowed' amenity to its broader context.

Varied allotment configuration

The study area comprises a significant variance of allotment sizes, frontage widths and depths contributing to the diverse character of the precinct. Lot depth varies due to irregular subdivision pattern of former industrial sites, as compared to the fairly regular pattern of fine-grain residential. Studying the cadastral data indicates a presence of small clusters of fine-grain rows of terraces that are generally tightly enclosed by large allotments of remnant industrial uses. To the east, the subdivision of the Office of Housing site housing occupying an urban block is unique to the study area.

To the north are three narrow mid-block terraces between Wellington and Gold Street. To the Parade's south, similar conditions are found between Blanche and Wellington Streets. Where these small clusters of fine-grain allotment occur, they generally immediately adjoin residential areas beyond the study area, indicating the broader residential influence in the subdivision pattern along Alexandra Parade. Some properties at key intersections address both Alexandra Parade and side streets, thereby presenting as side elevations to Alexandra Parade (e.g. The Fox Hotel on the corner of Wellington Street and the Gasometer Hotel on the corner of Smith Street).

The grassed median of Alexandra Parade boulevard accommodates canopy trees

Green Streets feeding into the Parade from the south

Green Streets feeding into the Parade from the south

The Fox Hotel presenting its side frontage to Alexandra Parade

Key Junctions

The Smith Street and Alexandra Parade intersection presents as the key junction with the precinct, serving as an important wayfinding element, contributing to the clear division in character along the Parade. This key junction also accommodates public transport movement, the Route 86 Tram (Bundoora RMIT to Waterfront City, Docklands). The junction provides an important connection in navigating pedestrian movement across the Parade, which experiences high volumes of east-west traffic. At the eastern edge of the Precinct, the junction of Hoddle Street with the Eastern Freeway marks a key vehicular entrance into the municipality.

Smith Street signalised junction with Alexandra Parade

Rear interfaces

The majority of lots with a primary frontage to Alexandra Parade corridor have an interface with General Residential or Neighbourhood Residential Zoned land to the north and south. Exceptions occur where the study area has a direct interface to adjoining Smith Street Built Form Precincts (C1Z). Based on the varied laneway conditions, residential lots to the south are particularly sensitive, where overshadowing to habitable rooms and private open space will influence the built form proposition.

Consistent with Brunswick Street and Smith Street are the regular laneways to the rear of properties fronting Alexandra Parade (south side) and side streets. On the northern side of the Parade both, north-south oriented laneways provide rear access to mid-block properties, which otherwise are not accessible from the east-west oriented rear laneways. On the south side, the Precinct boundary east of Smith Street is formed by rear laneways providing access to properties fronting Alexandra Parade, as well as separation to adjoining residential allotments.

Wellington St dellings with northern outlook toward properties fronting the Parade

Rear backyards of Council Street residences forming a study area boundary

Open Space

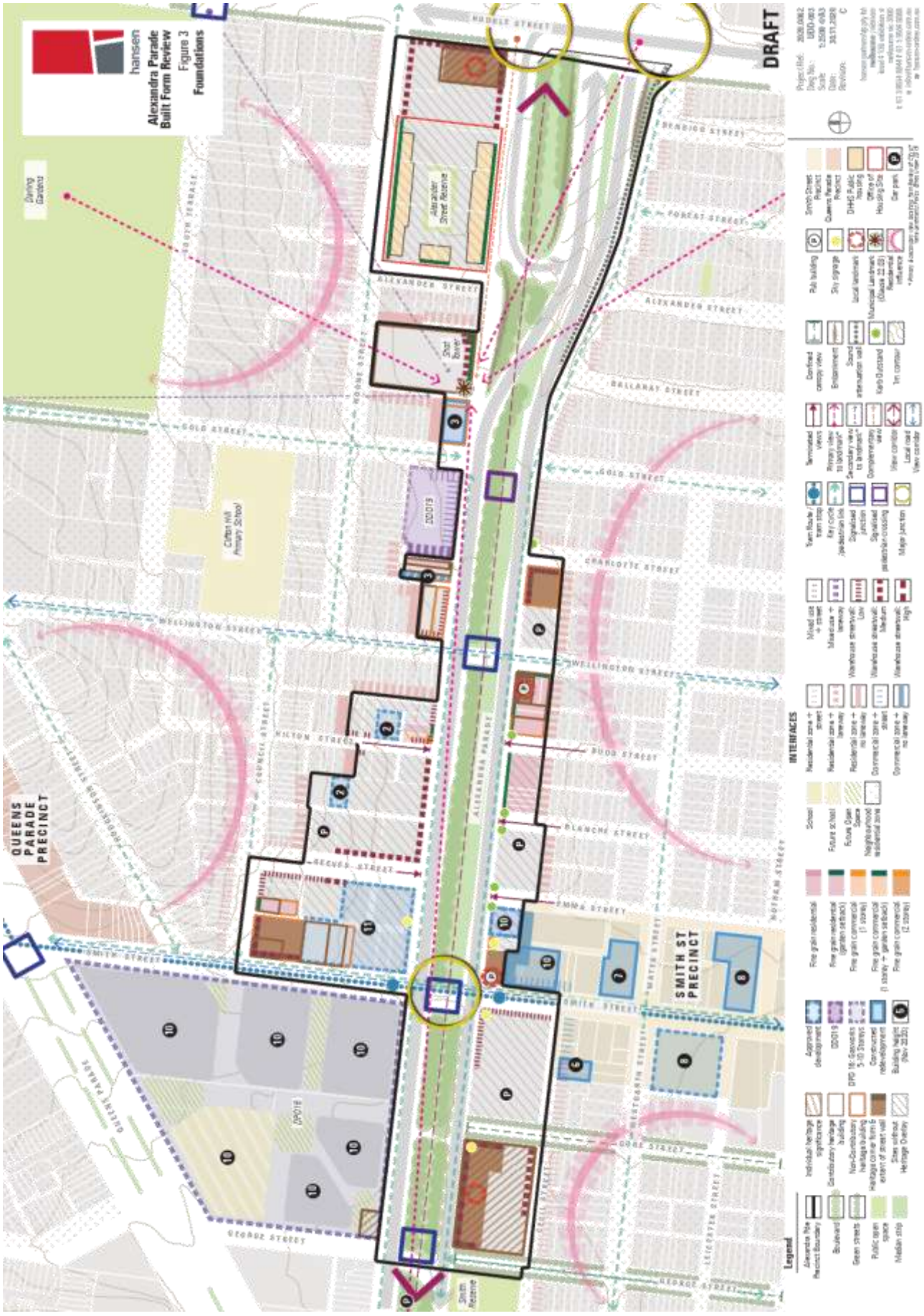
There is a lack of notable public open space within the boundaries of the precinct, however, Smith Street Reserve (and Fitzroy Pool) is located immediately west of the study area. Additionally, Darling Gardens is located less than 200m to the north and Edinburgh Gardens islocated 500m to the northwest.

Adjoining Built Form Precincts

The Alexandra Parade Precinct is flanked and intercepted by the Queens Parade Activity Spine, a transit corridor and heritage retail strip. The Queens Parade precinct has recently been through the Planning Scheme Amendment process (Amendment C231, adopted on 17 March 2020). Also adjoining the Precinct is the Smith Street Activity Spine Built Form Precinct which contains one of Melbourne's notable heritage streetscapes. The Former Gasworks Site and recent DPO16 precinct also anticipates considerable change that will influence the western interface to the study area.

The adjoining Queens Parade Activity Spine

Attachment 1 - Attachment 1 - Alexandra Parade Built Form Framework



2.2 Alexandra Parade Precinct Built Form Framework

In response to foundation matters, a Built Form Framework has been advanced to reinforce locations for varying levels of change within the study area. A Framework is not definitive (like a Built Form Control Plan), instead it seeks to identify critical 'gestures' of the City. In this instance, the framework recognises the importance of the following attributes (Refer to Figure 4):

Views to Municipal Landmark: Shot Tower

Views to the Shot Tower remain an important consideration for the shaping of built form in the precinct. Future development and upper-level additions must not impede primary views to the Shot Tower (identified in the Draft City of Yarra Landmarks Policy Review and the proposed Clause 15.01-2L: Landmarks (Amendment C269 to the Yarra Planning Scheme). Future development should retain the Shot Tower as the principle built form landmark in the identified secondary views, as well as the complementary view at the north-eastern junction of Alexandra Parade and Hoddle Street (at the pedestrian crossing island refuge), from where the Shot Tower serves as an important wayfinding element in the local setting.

Varied Streetscape Profile

The central blocks of Alexandra Parade, between Emma Street and Alexander Street have a more varied streetscape profile due to its varied uses and subdivision pattern. A large proportion of sites in urban blocks affected by existing Heritage Overlays (HO317 and HO321) are non - contributory buildings. A limited number of contributory and individually significant buildings include the Shot Tower and local landmarks positioned at corners. The north side of the Boulevard has a more consistent built form definition along the street frontage. On the south side, some existing buildings are setback from the street frontage for landscaping and private open space.

Future built form should reference this 'varied' condition and adopt a more customised response while acknowledging the sensitivity of its residential interface to the rear, and alignment of adjoining heritage frontage. Continuation of street wall definition on the north side should also be contemplated, while a more varied setback response to the south is likely to be retained. Future development including on heritage sites should ensure primary views and prominence of the Shot Tower are retained.

Capacity

At the east and west of the study area, these 'bookend' precincts lack heritage sensitivity with limited controls to guide future development outcomes, particularly on C1Z and C2Z sites. Located at the periphery at either end of the Boulevard and in proximity to Hoddle Street, they are also distinguished from the more sensitive middle section due to its large subdivision and limited immediate sensitive interface with established residential area (outside the study area boundary). Currently, most of these allotments accommodate broad grained warehouses and commercial buildings.

Views to the Shot Tower west along Alexandra Parade

Large allotments of urban blocks with capacity for change (west)

Large allotments of urban blocks with capacity for change (east)

A varied streetscape profile south of the Boulevard

Some sites have existing approvals (not constructed) for up to 11 storeys comprising street walls/ podium and rising form above. Importantly, recently implemented strategic initiatives for the Gasworks Site- DPO16 and Council's endorsed interim DDO controls for the Smith Street MAC sets the ambition for a greater level of capacity that can be accommodated on the western end of the study area.

The Office of Housing site (43 Noone Street) is currently zoned GRZ3. The site was part of a review under the Public Housing Renewal Program (PHRP) but renewal was not pursued. For the purpose of this Review, existing residential zoning provisions will continue to be applicable. The 'island' condition defined by Noone Street, Alexander Street and the Hoddle Street junction presents an opportunity to demarcate entrance into Alexandra Parade.

Key Junctions

Where Alexandra Parade intersects with local side streets, the future form should be shaped to retain views to the Shot Tower from the broader precinct (outside the study area) for wayfinding and sense of place. Similarly, the junctions with Hoddle Street (a main road) and Smith Street (a commercial spine) demarcates key junctions and entries into the Municipality and into one of Yarra's Major Activity Centres. In absence of heritage sensitivity at corner locations and where larger sites have recent development approvals (not constructed) for 10 storeys and above, there is opportunity for taller forms, which preserve viewlines to the Shot Tower and protect amenity (solar, wind, pedestrian scale) to public realm.

Back Blocks

Where the Boulevard provides the primary address for significant change to occur, particular urban blocks also have address or interface to established residential areas. While these blocks can accommodate capacity, their development opportunity is influenced by proximity to residential influences. The shaping of new urban form will be influenced by managing transition within these urban blocks.

Boulevard Address

Alexandra Parade is strongly defined by its landscaped central median. Solar access to the central median will ensure long term viability of the canopy planting, as well as retaining attractive presentation into inner Melbourne and the City of Yarra. Future development should continue to ensure solar access to the central median is protected and to adhere to a pedestrian scale despite the large cross section. Consideration of street wall definition and overall development height is required to determine an appropriate outcome for solar access.

Key Pedestrian Connections

Smith, Wellington and Gold Streets are important perpendicular streets with designated sustainable transport routes (tram and dedicated cycle paths) between Clifton Hill and Collingwood. At the Alexandra Parade junctions, these north -south links are provided with signalised pedestrian and cycle crossings. Where increased pedestrian footfall can be expected, street level activation and long term amenity to public realm (solar access, wind effect, pedestrian scale consideration) along these streets should be prioritised.

A varied streetscape profile north of the Boulevard

The northern approach to the Smith Street junction

Cycling infrastructure in the Wellington Street streetscape profile

Residential green streets are integral to the Fitzroy/Collingwood image

Green streets

It is essential that future development continues to support the landscaped character of Gore and George Streets, which are defined by large established trees within the road reserve and kerb extensions at the intersections at George Street. Opportunities to realise additional 'pause places' at Gore Street through kerb extension should be investigated as part of future Alexandra Parade public realm upgrades.

Heritage Values

Within the precinct are individually significant and contributory heritage buildings including the Municipal Landmark (Shot Tower), local landmarks (including heritage warehouses and corner hotels) and fine grained residential buildings. Given the varied heritage definition, there is potential to tailor site responses in accordance to its heritage abuttal. Where heritage fabric only occupies a portion of large sites, varied opportunities can also be realised on site, including the opportunity for a standalone new building to be realised beside, or behind the heritage asset. Council and Noone Streets run parallel to Alexandra Parade to the north, typified by low rise, fine grain heritage buildings in NRZ. Development along these residential streetscapes should respond to this existing scale of built form. Future development in the precinct should consider implication on these residential streetscapes. Views to the Shot Tower are also prominent along Noone Street.

Transition

Behind the Alexandra Parade spine are fine grained residential precincts within the Heritage Overlay. At Wellington and Alexander Streets, the spine is also interrupted by a fine grain residential row of allotments (NRZ) which have been excluded from the study area. New forms on adjoining sites, including some larger sites in C2Z such as along Hilton Street, their development opportunity is strongly influenced by its proximity to sensitive residential properties beyond the precinct. The existing hierarchy of primary and secondary street addresses will assist in managing future 'fronts', 'sides' and 'backs', contributing to strengthening sense of address and activations as well as reinforcing a sense of order along the corridor. The shaping of new urban form will be influenced by managing transition within these urban blocks.

Varied Subdivision Pattern

Varied urban block arrangements and subdivision patterns on the northern and southern sides of Alexandra Parade warrants a varied response. A valued attribute is the clear sense of grain and visual permeability. Where large allotments occur, consideration for multiple building footprints should be encouraged to minimise the effect of continuous walling. This includes single allotments that extend between multiple streets, such as the 'Officeworks' site at 230 Alexandra Parade, Fitzroy, and the Office of Housing site further east.

The level of moderate growth is apparent along the middle of the spine and overall scale will be particularly influenced by lot depth and rear interface factors. Island sites, which constitute a super lot in a single ownership with at least three street frontages including to Alexandra Parade will need to have regards to improving permeability through adopting multiple forms for visual 'breaks' and/ or ground level linkages that line up with perpendicular laneways and street networks.

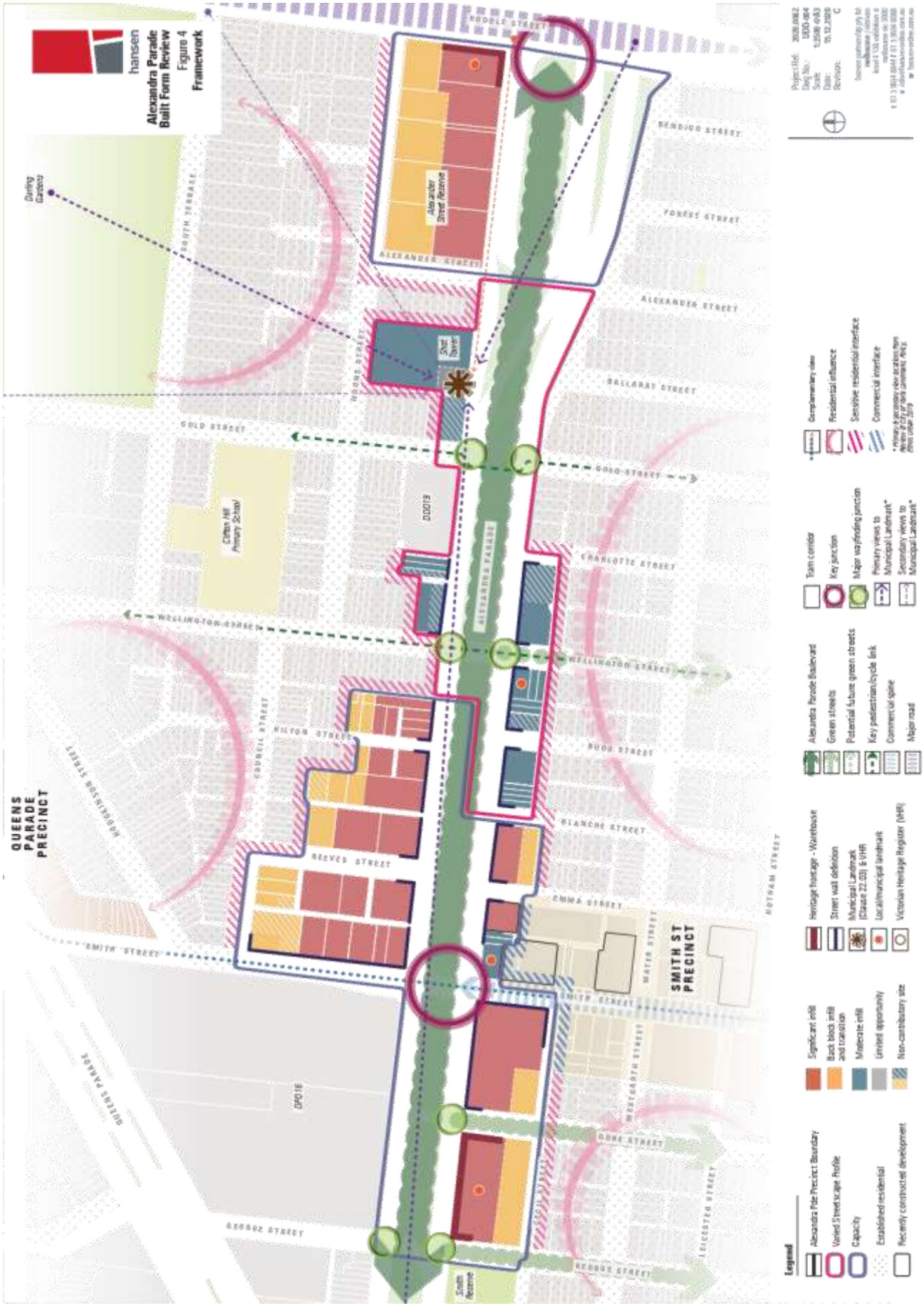
The heritage fabric of the former Murray Co. Wool Works building

Residential terraces along Council Street

Fine grain residences in streets immediately adjoining the Parade

Office of Housing building viewed along Alexander Street

Attachment 1 - Attachment 1 - Alexandra Parade Built Form Framework



Future Character Statement

Given this 'Framework' for change, the following future character statement is recommended.

Future development along Alexandra Parade will continue to reinforce its role as a key east- west boulevard, connecting inner Melbourne to the broader Eastern subregion. The Alexandra Parade visual experience will continue to be influenced by the Municipal Landmark of the Clifton Hill Shot Tower – integral to the precinct character and wayfinding of Collingwood, Fitzroy and Clifton Hill.

New development will respond to the varied subdivision pattern and the landscape character along the main spine and its network of streets behind, creating a low to moderate street edge that balances a sense of enclosure with a pedestrian scale and streetscape openness. Development on key junctions at Smith Street and Hoddle Street will demarcate entrances into the Smith Street MAC and the municipality respectively.

Taller buildings will be confined to the eastern and western ends of the precinct on larger allotments comprising non-contributory buildings, where amenity tests can be absorbed within the site boundary. In this context, future development should continue to reflect the prevailing subdivision pattern and permeability. The remainder of the precinct will continue to provide for moderate infill development while enhancing pedestrian amenity and streetscape presentation to the residential setting, to where urban form will transition to.

Framework Principles

In response to this distinction in the precinct's urban fabric, the preferred future-built form character will seek to build on its key attributes by adopting the following principles:

1. Protect views to the Clifton Hill Shot Tower and views to the architectural features of local landmarks.
2. Maintain solar access to the Boulevard's central median and opposite footpaths along commercial spines and green streets.
3. Transition to the residential edges, with a particular awareness of potential overshadowing to southern interfaces and rising topography at the northern edges.
4. Establish a moderate street edge condition at infill development opportunities that steps down to lower, sensitive building fabric to create a pedestrian scaled sense of enclosure at building edges, that balances the open setting of the boulevard.
5. Respond to the scale and form of existing and approved development within and at the periphery of the study area, through moderate infill in between taller precinct bookends on larger allotments with limited heritage fabric.
6. Demarcate key entries into the Boulevard and MAC's at junctions while preserving views to valued heritage asset.

PART 3: BUILT FORM PROPOSITION

The Built Form Proposition has been derived from the Built Form Framework which was informed by the Foundations Analysis and underpinned by the overall Background Analysis.

The Alexandra Parade Precinct Built Form Proposition demonstrates block by block and street by street parameters for the precincts' evolution of new development. The identified parameters are neither fixed, or absolute but are intended to guide future change. The proposed proposition or 'controls' are represented in Figure 4 and are derived from the following basis:

- Heritage input;
- Municipal Housing Strategy;
- Precinct character;
- Street propotions;
- Solac access to the public realm;
- Shot Tower view and vistas;
- Local landmarks;
- Heritage street walls and upper levels;
- Heritage frontages;
- New street walls and upper levels;
- Transition;
- Upper level expression;
- Residential interfaces;
- Building separation, amenity and equitable development;
- Sites in residential zone.

The rationale for height parameters is outlined as follows:

3.1: Basis for Height Parameters

Heritage Input

GJM Heritage provided extensive heritage input based on comprehensive analysis comprising:

- The heritage grading of each property within the Heritage Overlays;
- The currency of existing Statements of Significance;
- Confirmation of places with Victorian Heritage Register nomination;
- Identification of local landmarks; and
- Recommended built form parameters to appropriately manage development within the heritage context.

Refer to Alexandra Parade Heritage Analysis & Recommendations (GJM Heritage) for details.

Housing Strategy

With reference to the adopted Housing Strategy for the Municipality (adopted 2018), the southern side of the Alexandra Parade Precinct (between George and Charlotte Street) is identified as part of the Smith Street Major Activity Centre. The western end of the Alexandra Parade Built Form Review study area is the Clifton Hill Neighbourhood Activity Centre, including the Former North Fitzroy Gasworks site. The Major Activity Centre and the Former Gasworks site are predominantly designated for high change (around the Smith Street intersection on land zoned C1Z and MUZ). Further east along Alexandra Parade is urban blocks in varied zones (MUZ and GRZ) designated for a moderate change. Land zoned C2Z within the Precinct is not given a designation, while residential zoned land is designated for minimal change.

In areas of moderate change, the strategy identifies future development to be in the form of mixed-use, infill and shop-top apartment development on individual and consolidated lots that respond to the existing heritage character of streetscapes. In areas of high change, the strategy identifies future development to be in the form of mixed-use, infill and urban renewal apartment development that will establish a new character for a site or Precinct.

Precinct Character

Key characteristics that distinguish the Alexandra Parade Precinct are attributed to the primary address to the wide boulevard, traversing through a mixed built form setting punctuated by the landmark Clifton Hill Shot Tower. The diversity in built form is attributed to variation in the subdivision pattern, land use function and mix of built form typologies, comprising commercial forms, corner hotel buildings, remnant warehouses and contributory residential dwellings. New development should seek to respond to the unique characteristics and sensitivities as required.

Street Proportions

Default preferred maximum building heights have been derived in relation to the adjoining street width. This has been based on considerable analysis and documentation of the existing relationships throughout the broader study area, which has shown there is some correlation between the width, function and character of the street to the height and profile of the buildings which line it.

This study also recognises that street width relationship to the ovarall building height also has a strong correlation with the street's function and streetscape character.

In the diverse context of Alexandra Parade, future development will continue to respond to the street-based built form outcome by adopting streetwall scale and setbacks to upper levels influenced by retention of key views, solar access to the public realm, pedestrian scale and heritage influence. They are also determined by the size and depth of lots, noting the need for rear boundary transition conditions.

It acknowledges that the street width to building height ratio is not seen as a 'target'. Rather this consideration must also be complemented by the ability for future development to respond to its streetscape character and heritage setting.

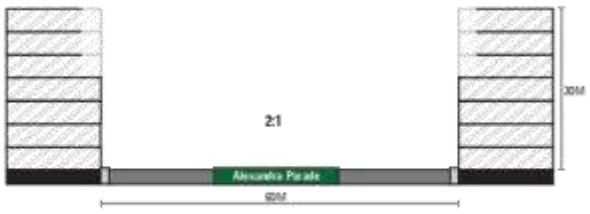
Parade Presence & Transit Corridor

Alexandra Parade (60m) and Hoddle Street (40m) are distinctively characterised by open, broad profile with a central median planting to Alexandra Parade and Hoddle Street (north of Alexandra Parade).

As a starting point, the preferred overall building height of new forms along these wide movement corridors will seek to balance the opportunity presented by the generous road proportion with retaining the sense of openness.

The following is recommended:

- Up to 2:1 – Street width to overall building height ratio (main road corridors at key junction locations, large size lots).



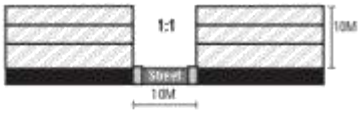
A street width to building height ratio 2:1 for parade and transport corridor

Typical Streets

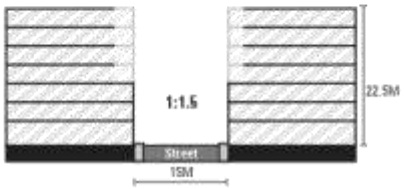
On sites without a frontage to Alexandra Parade, the preferred overall building height of new forms can be influenced by the width of the street, which ranges between 10m, 15m and 20m 'streets'. The size, depth of allotments, commercial road frontage and transition to sensitive interfaces are factors that vary the 'default ratio' as a starting point.

The following is recommended:

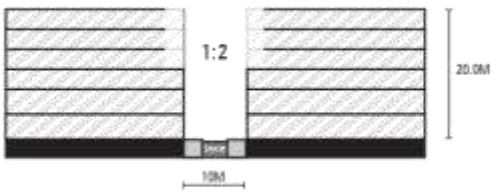
- Up to 1:1 – Reduced street width to overall building height ratio for other streets (15m-20m wide).
- Up to 1:1.5 – Reduced street width to overall building height ratio for moderate size lots on Smith Street and Reeves Street (20m wide).
- Up to 1:2 – Reduced street width to overall building height ratio for moderate size lots on Hilton Street (10m wide).



A default street width to building height ratio 1:1 on typical streets (15-20m wide)



A default street width to building height ratio 1:1.5 for moderate sized lots on Smith and Reeves Streets (20m wide)



A default street width to building height ratio 1:2 for moderate sized lots on Hilton Street (10m)

Solar Access to the Public Realm

In inner urban areas such as Fitzroy, Collingwood and Clifton Hill, solar access to the public realm is an important consideration. Therefore, future urban form should protect solar access to key streets and open spaces appropriately to ensure 'life and attraction' at the street level for residents and visitors.

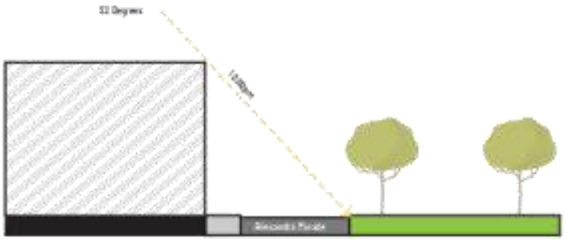
The Urban Design Guidelines for Victoria contains the following relevant Objectives and Guidelines:

'Objective 5.1.3 To ensure buildings in activity centres provide equitable access to daylight and sunlight', and

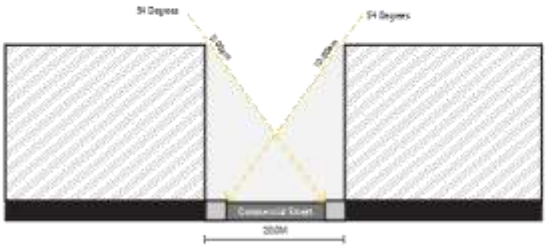
'5.1.3a Locate and arrange the building to allow daylight and winter sun access to key public spaces and key established street spaces.'

Within the Alexandra Parade Precinct we recommend the following solar access measures to maintain appropriate solar access to the public realm, measured on 22 September (equinox):

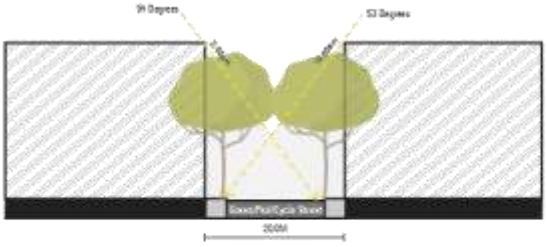
- Along **Alexandra Parade** (Boulevard), minimise overshadowing of the central median at 12pm. This test will ensure the viability of median vegetation and reinforcing the civic quality of its boulevard, recognising its importance to the image of the City.
- Along **Commercial Street** (Smith Street): avoid overshadowing of the eastern and western footpaths (3m from property boundary) between 10am and 2pm.
- Along **Green Streets** (George Street and Gore Street) and **Key Pedestrian Priority/ Cycle Links** (Wellington Street and Gold Street): avoid additional overshadowing of the opposite western footpath at 10am; and the opposite eastern footpath at 2pm. Kerb-outstands at intersections should also be protected.
- Along **Other Streets Within the Study Area** (Reeves, Emma, Blance, Budd, Charlotte, Alexander Streets): avoid overshadowing of the opposite western footpath at 10am; and the opposite eastern footpath at 2pm.
- Along **Narrow Streets Within the Study Area** (Hilton Street): avoid additional overshadowing above the ground floor of buildings. On narrower street, some overshadowing of footpaths is inevitable. It is determined that protection of solar access to first floor is acceptable in this location.
- **Other streets Outside the Study Area:** avoid overshadowing of footpaths to opposite side of the street between 10am to 2pm.



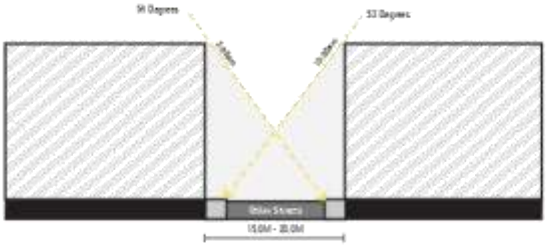
12pm exquinox solar angle along Alexandra Parade



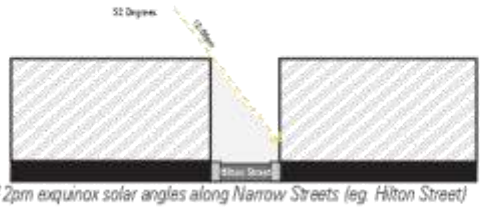
Exquinox solar angles along 20m wide Commercial Streets



Exquinox solar angles along Green Streets & Pedestrian Priority/Cycle Links



Exquinox solar angles along 15-20m wide 'Other Streets'



12pm exquinox solar angles along Narrow Streets (eg. Hilton Street)

Shot Tower Views and Vistas

The Clifton Hill Shot Tower is approximately 65m tall. It is prominent in views along Alexandra Parade from the east, with high visual frequency at key pedestrian, tram and vehicle movement intersection such as Brunswick and Smith Streets. It is also prominent in views in the broader setting, due to surrounding low scale residential areas and the northern rising topography of Clifton Hill.

Key to the identity of Alexandra Parade and its surrounds is the Shot Tower and its importance as a wayfinding element in the legibility of the broader setting. Therefore primary views must not obscured. Secondary views, as well as 'breathing space' around the Shot Tower should be retained to maintan the visual prominence of this Municipal Landmark.

Key viewlines towards the Clifton Hill Shot Tower identified in the Draft City of Yarra Landmarks Policy Review and the proposed Amendment C269 to the Yarra Planning Scheme (Clause 15.01-2L: Building Design) have influenced the shaping of built form proposition for Alexandra Parade (heights and setbacks). Its recommendations are below.

Shot Tower 'primary views': *Maintain visual prominence of the Shot Tower to at least one third of the Tower's height. Future development sited behind the Shot Tower not to impede on its silhouette against a clear sky. Location of primary views are:*

- *View 1: Brunswick Street and Alexandra Parade intersection;*
- *View 2: Eastern Freeway (west of the Hoddle Street overpass);*
- *View 3: Darling Gardens (rotunda).*

Based on this review, new street walls and upper levels in the foreground and background of these views should therefore not impede primary views of the tower.

Shot Tower 'secondary views': *supporting the primary views are secondary views of the Shot Tower that are encouraged to be retained in the shaping of new street walls and upper levels. The location of secondary views are identified in the 'Landmarks and Views Assessment'* (Ethos Urban, October 2019), *are:*

- *View 4: Roseneath Street and Hoddle Street intersection; and*
- *View 5: Gold Street and Queens Parade intersection.*

Shot Tower Primary View 1: View from the Brunswick Street intersection

Shot Tower Primary View 2: View from the Eastern Freeway (west of the Hoddle Street overpass)

Shot Tower Primary View 3: View from the Darling Gardens rotunda

Complementary 'views': An additional view to the Shot Tower is identified from the north-eastern junction of Alexandra Parade and Hoddle Street (at the pedestrian crossing island refuge). From this location, the prominent south-eastern corner of the former Murray Co. Wool Works at 457 Hoddle Street (HO89) - a local landmark, sits in the foreground. Maintaining this view to the Shot Tower from this pedestrian crossing, as well as its visual prominence in the streetscape is important from a sense of place and wayfinding perspective.

Future development sited in front of the Shot Tower should retain 'breathing space' around it. Retention of the former Murray Co. Wool Works heritage fabric and roof form (along Alexandra Parade) is also recommended from heritage perspective. Any new street walls are to respond to the heritage fabric, with upper levels set back to retain **visual primacy of the Shot Tower from this complementary view location.**

Complementary view of the Shot Tower with 457 Hoddle Street in foreground

Local Landmarks

A total of four local landmarks are identified in the Study Area, occupying corner sites. Prominent heritage corner building is a heritage feature and a key characteristic of Fitzroy, Collingwood and Clifton Hill. Therefore, retaining views to and 'space' behind these prominent corner forms (and its chimney) is important to ensure they remain visually prominent and 'hold' the corner. The following are identified as Local landmarks in the study area:

- Murray Co. Wool Works at 457 Hoddle Street (HO89), Clifton Hill.
- Gasometer Hotel at 484 Smith Street, Collingwood.
- British United Shoes Machinery Co. Pty Ltd Factory at 200 Alexandra Parade, Fitzroy (HO334).
- Fox Hotel at 351 Wellington Street, Collingwood (HO321).

Local landmark - the Fox Hotel

Local landmark - the Gasometer Hotel

Heritage Street Walls and Upper Levels

Within the Alexandra Parade study area, there is a presence of heritage fabric which is to be retained. The recommended upper level setback parameters for contributory or individually significant sites draw on the objectives and provisions of Clause 22.02, 22.10 and 22.14 as well as heritage advice from GJM Heritage.

Within the precinct, heritage street walls and frontage vary considerably. They generally occur as single entities between neighbouring non-contributory buildings and generally comprise 1-2 storeys and a 4 storey street wall exist at 200 Alexandra Parade (Former British United Shoe Machinary building).

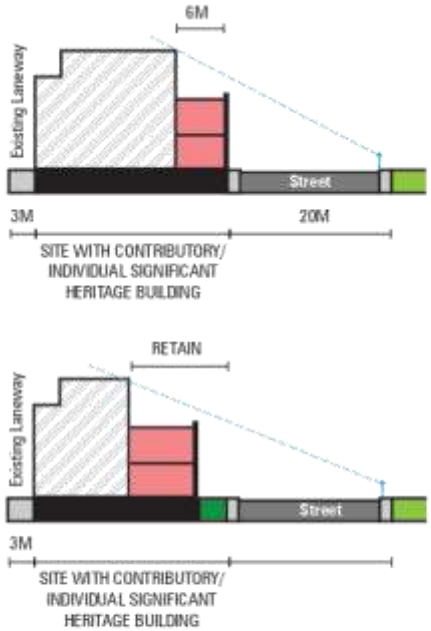
A **default 6m measurement** (from the retained facade to the new built form including balcony line) is applied to the contributory and individually significant sites fronting Alexandra Parade, Smith, Wellington and Council Streets. This is to ensure adequate protection of the primary heritage 'volume' (including chimneys, and exposed roof forms). The default upper level setback will also protect facade articulation in the streetscape elevation with spatial separation between the street wall or frontage and recessive upper levels.

Where opportunity for taller development exists behind the heritage volume, an upper level setback greater than the default 6m will be required in addition to consideration of a sensitive architectural design treatments (massing, form and materiality) to ensure the new form does not visually compete with the heritage element.

Heritage Frontages

Based on an understanding of heritage advice and the distinct built form character across the precinct, the following parameters guide the preferred built form response for heritage frontages in the study area:

- The existing curtilage around the base of the Clifton Hill Shot Tower should be retained (approximately 6m measured from the base of the Shot Tower) to ensure new development maintaing 'breathing space' around the landmark.
- Where new buildings are proposed within the side or rear setback of VHR sites (Clifton Hill Shot Tower site), they are to be positioned behind existing structures, ensuring heritage frontages are not concealed by new forms from streetscape views.
- New built form to the rear of individually significant residential heritage forms, including single and two storey terraces should ensure upper levels are highly recessive in view.
- Retain existing heritage frontages, including street setbacks.



Preferred setback above and behind heritage frontage

Contributory/individually significant building
Existing landscape setback
Boulevard median

New Street Walls and Upper Levels

In urban areas, almost all urban design guidelines seek to introduce a 'street wall' and 'upper level front setback' measure. The purpose for such a distinction and separation is to ensure predominance of the 'traditional' forms and parapets within the streetscape, while enabling provision of new and increased heights in a recessive order. Upper level setbacks also retain a sense of openness to the street, which are prominent in a pedestrian's field of vision and reinforce the traditional street wall scale.

New street wall heights

The Alexandra Parade Precinct has a diverse mixe of street wall and frontage heights, from tall and broad warehouse forms lining the boulevard and commercial side streets, to narrow, low-rise dwellings set behind front garden setbacks.

Importantly, new street walls should not diminish the heritage qualities present in streetscapes. On wider allotments with greater capacity for change, street walls should 'step' down to match adjoining heritage forms, but can accomodate higher street walls after a minimum 6m of matching the adjoining heritage parapet.

Importantly, new street walls should not result in diminishing the heritage quality of streetscapes. The following is recommended:

- A **'default' maximum street wall of 4 storeys (14.4m)** is applicable to sites fronting Alexandra Parade, Smith Street and Reeves Street on non-residential zoned land. It reflects the 4 storey heritage street wall datum of the British United Shoes Machinery Co. Pty Ltd Factory.
- Reduced **street wall height of 3 storeys (11.2m)** is applicable for Hoddle Street and part of Smith Street response to heritage street wall and transition to residential interface.
- Reduced **street wall of 3 storeys (11.2m)** is applicable to other streets, reinforcing the hierarchy of Alexandra Parade and providing transition to lower scaled residential areas to the north and south of the study area.
- Reduced **street wall height of 2 storeys (8m)** is applicable for sites adjoining single storey contributory/ individually significant heritage site.

Upper level setbacks for non-contributory sites

The purpose of the upper level setback is to:

- Respond to key views to the Shot Tower.
- Retain prominence of local landmarks.
- Provide a clear distinction between 'base' and 'top'.
- Create a degree of consistency for upper levels that comprises a mix of heritage and non- heritage forms.
- Ensure the new upper level does not visually overwhelm the streetscapes and to balance the sense of openness, enclosure and a pedestrian scaled setting.
- Ensure no unreasonable overshadowing of the public realm (taller buildings may require upper level setback greater than 3m to meet the overshadowing requirement).

For these reasons, **a 'default' 3m upper level setback** (from the facade to the new built form including balcony line) is applied to all non-contributory sites.

Variation to the default upper level setback is recommended (6m upper level setback) for the following areas:

- **The northern side of Alexandra Parade** preserving key views to the Clifton Hill Shot Tower and minimising overshadowing of the central median;
- **Smith Street** for a visually dominant street wall and to achieve a degree of consistency with development on heritage sites;
- **Gore and George Street** (green streets) to meet the overshadowing requirements and transition to residential precincts to the south of the study area;
- **Cecil Street** for heritage streetscape and to minimise overshadowing of residential properties (south side);
- **Council and Noone Streets** for heritage streetscape consideration and transition to residential precincts outside the study area.

Preferred setbacks behind Alexandra Parade interfaces (north and south sides)

Transition

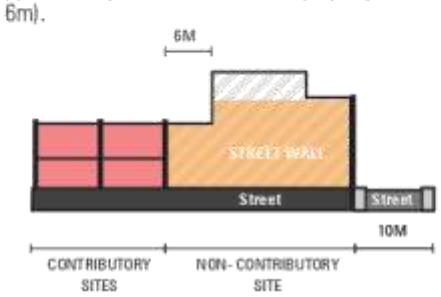
In this part of Fitzroy, Collingwood and Clifton Hill, the transition in building height is gradual. Large sites are often redeveloped as mutiple buildings, maintaining the sense of 'grain' and separation between forms.

Transitions in scale are an existing characteristic of the broader area. There are many examples of older commercial or warehouse forms side by side with fine grained dwellings. In this context a change in streetwall height of one storey is common within the streetscapes of the precinct.

The broader skyline is generally low, but punctuated by mid-rise and high-rise forms along the commercial spine of Smith Street - including towards its junction with Alexandra Parade (upwards of 10 storeys with 3-4 storey street walls). There is limited evidence of recent construction along the northern side of Alexandra Parade within the precinct, with the established residential hinterland forming the skyline further north.

Larger sites may be able to accommodate for gradual transitions through recessive upper levels and transition in scale in response to abutting heritage forms. In order to avoid undesirable 'wedding cake' forms, minimal 'steps' in built form massing is encouraged. Transitions in scale should, as a minimum, occur in paired levels.

In some instances, sites have direct abuttals to contributory heritage sites. New street wall should transition from taller street wall to respond to the abutting heritage parapet for a length of pproximately 6m or to the nearest property boundary (if less than 6m).



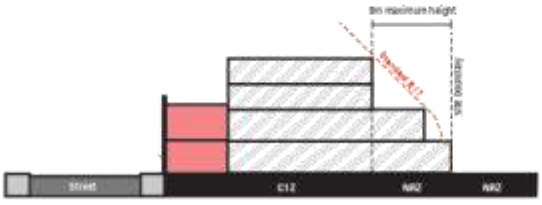
Preferred street wall transition for corner sites

Contributory/individually significant building

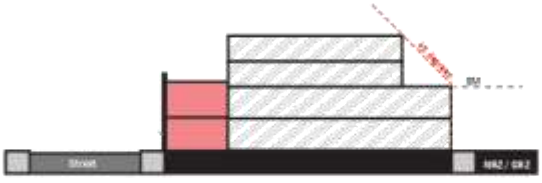
Upper Level Expression

The design of upper levels of new development should:

- Be well articulated and break up the building mass;
- Distinguish between the lower and upper levels through materials and articulation;
- Be designed so that side walls are articulated and read as part of the overall building design and not detract from the streetscape when viewed from direct and oblique views along the streetscape; and
- Provide passive surveillance of adjacent streets and public open space.



Preferred built form transition where NRZ is applied to rear of site



Preferred built form transition to residential zone land (GRZ/NRZ)

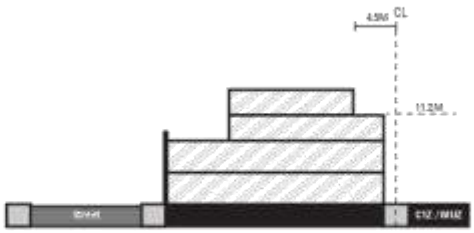
Residential Interfaces (including laneway)

The Alexandra Parade Precinct comprises a number of lots with rear and side interfaces with Residential Zoned land. Generally, these interfaces are separated by rear laneways. There are few instances where lots have a direct abuttal to residential properties, specifically on lots fronting Hilton Street and the north-south aligned laneway between Reeves and Hilton Streets. East of Wellington Street, lots within the precinct boundary that directly abut Residential Zoned land are also zoned GRZ.

Residential interfaces are often defined by secondary frontage or party walls (1- 2 storeys). Along these residential interfaces (with, or without laneway separation), an 8m (2 storeys) form built to the boundary is required with a recessive upper-level setback (behind a 45- degree setback envelope) to ensure residential amenity is protected.

Non-Residential Interfaces (including laneway)

The precinct comprises a mix of rear interface conditions including laneways of varying widths and rear abuttals. Future development should respond these mixed conditions. Where new development is separated from adjoining non-residential sites by a laneway (typically 3m wide), it should present a maximum 11.2m (3 storeys) form at the interface, with any built form above set back 4.5m from the centreline of the laneway. This ensures a minimum distance of 9m is provided between adjoining sites to facilitate equitable development achieving adequate separation between dwellings.



Preferred built form transition to MUZ or C1Z sites

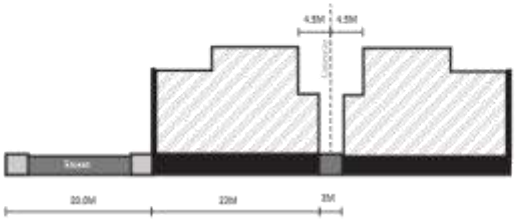
Building Separation, Amenity & Equitable Development

New development should provide a design response that considers the existing condition and future development opportunities of adjacent properties in terms of outlook, daylight and solar access to windows for both residential and commercial development. Development should be setback from common boundaries to provide separation between buildings at the upper levels:

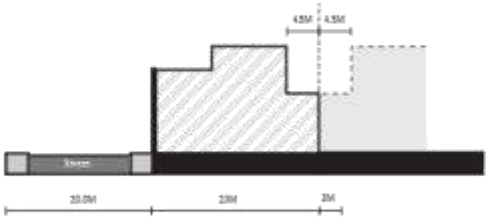
- A minimum of 4.5m from the boundary where a habitable room window is proposed;
- A minimum for 4.5m from the edge of a proposed balcony or terrace.
- A minimum of 3m from the boundary where a non-habitable room window or commercial window is proposed;
- Where the common side boundary is a laneway, the setback is measured from the centre of the laneway.

Sites in Residential Zone

Built form recommendations for sites in residential zones have adopted the mandatory maximum permissible height allowed by the zone. No key views to the Shot Tower and local landmarks are affected by this built form parameter.

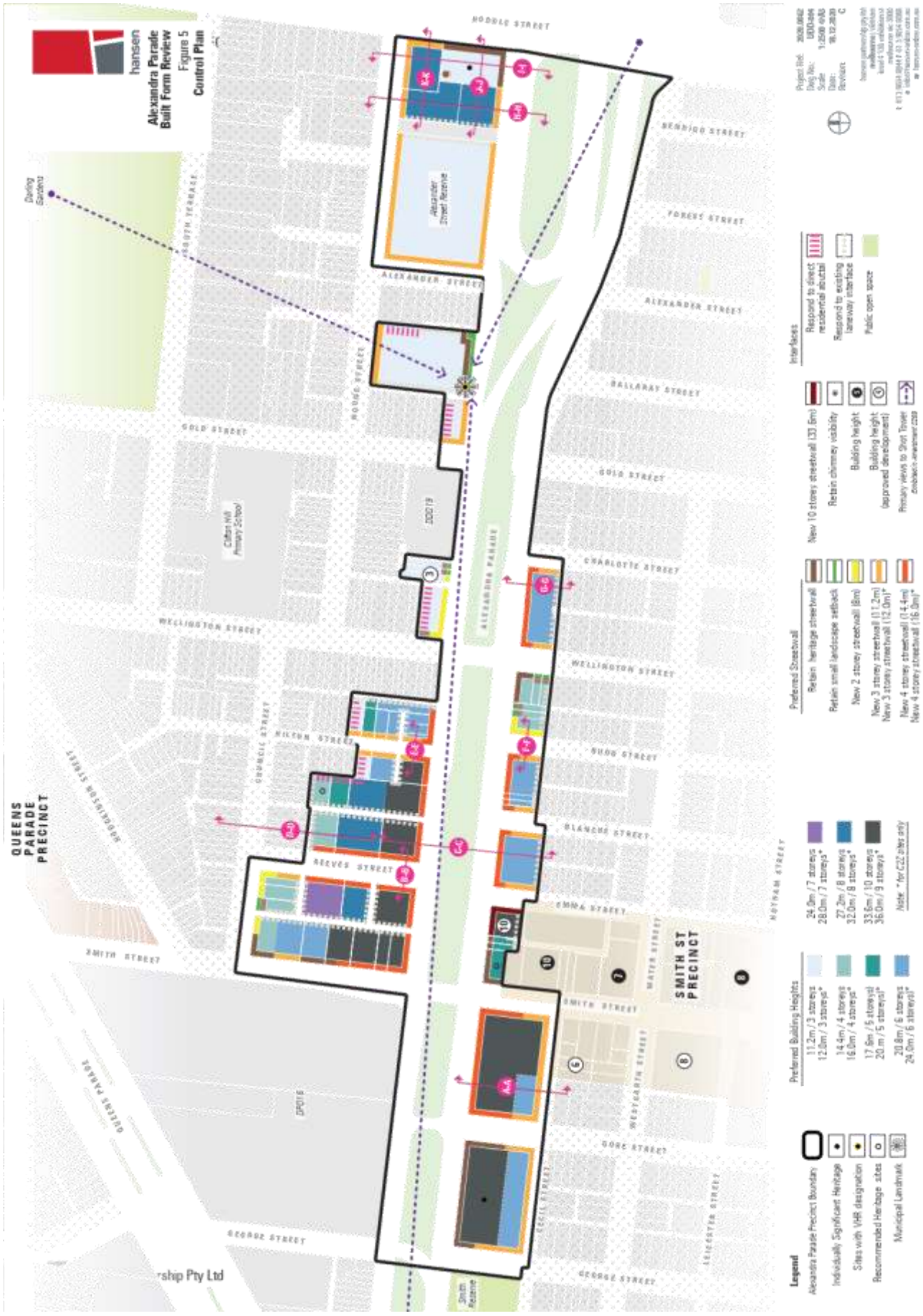


Preferred 4.5m setback of upper levels from centreline of laneway (minimum 3m wide)



Preferred 4.5m setback of upper levels from rear boundary

Attachment 1 - Attachment 1 - Alexandra Parade Built Form Framework



PART 4: RECOMMENDED CONTROLS

4.1 Methodology

The formulation of future building heights and streetwall conditions within the Alexandra Parade Precinct has been influenced by many factors, including:

- Planning Policy Framework;
- Local Planning Policy Framework, including Zones and Overlays;
- Practice Note No. 60 – Height and Setback Controls for Activity Centre;
- Practice Note No. 59 – The Role of Mandatory Provisions in Planning Schemes;
- City of Yarra Housing Strategy (Adopted 4 September 2018);
- Review & Development of the City of Yarra Landmarks Policy (March 2018);
- Urban Design Guidelines for Victoria, 2017;
- Anticipated scale and form of development outside the study area (i.e. within Residential and Employment Zones);
- Views to existing municipal and local landmarks from the public realm;
- Recognition of Yarra's heritage skyline;
- Recent development approvals (including those currently under-construction);
- 3D computer modelling of built form testing for the study area;
- Independent heritage advice and existing character considerations, consistent with the expert heritage advice provided by Council's heritage advisors (GJM Heritage);
- The overall Brunswick Street and Smith Street Built Form Review Background Report (November, 2019); and
- Extensive site inspections and workshops with Council's officers.
- Planning Panel Recommendations for:
  - Johnston Street Local Area Plan (C220);
  - Queens Parade Built Form Review (C223);
  - Swan Street Built Form Review (C191).

4.2 Assumptions

Formula for Deriving Numerical Building Heights

The maximum building heights has been calculated to a higher (than minimum) floor to floor heights in order to:

- Respond to the typical heights found within heritage buildings (between 8-11.2m);
- Accommodate for greater than minimum standards and provide flexibility for future uses;
- Allowance for other design elements to be accommodated, such as parapets, railings, etc.

The following numerical floor to floor dimensions were employed:

- Ground Floor and First Floor: 4m
- Second floor and above: 3.2m, except in land zone C2Z where 4m floor to floor heights are accounted for.

Note: Higher numerical floor levels for mixed use development may be required at upper levels.

Formula for Deriving Numerical Streetwall Heights

The maximum streetwall heights have been calculated based on the above floor to floor heights, plus additional height to allow for parapets, balustrades and minor architectural features.

Zero front setback

New buildings within Activity Centres and inner urban areas such as Gertrude Street should generally be built to the street frontage in order to:

- Respond to the prevailing built form character of the area;
- Provide a clear definition at the street edge; and
- Maximise the developable area.

With the exception of retaining existing front setbacks, all new street walls within the commercial and mixed use zone should be built to boundary.

Top Floor Depth

A minimum depth of approximately 10m for the upper most level has been considered in determining overall building heights. This minimum dimension is based on a typical apartment depth, and provision of efficient access.

4.3 Precincts

Based on the linear extent of Alexandra Parade and the distinction in future built form character along the corridor and to perpendicular side streets as determined by the Built Form Framework Plan the study area is divided into several precincts including:

- Alexandra Parade West (between George and Emma Streets on south side; between Smith and Hilton Lane on north side).
- Alexandra Parade Central (between Emma and Charlotte Streets on south side; between Wellington and the eastern boundary of 60 Alexandra Parade, Clifton Hill).
- Alexandra Parade East (between Gold and Hoddle Streets, excluding NRZ properties fronting Alexander Street).

PRECINCTS	STREET WALLS / GROUND LEVEL SETBACKS	PREFERRED MAXIMUM BUILDING HEIGHTS
ALEXANDRA PARADE WEST	• Retain heritage frontage (and garden setback). • Match adjoining heritage eaves/ parapet, or lower. • 3 storeys (11.2m-12.0m*) to 4 storeys (14.4m-16.0m*). • Minimum 6m upper-level setback on properties fronting Alexandra Parade (north side), Smith Street and Council Street. • Minimum 3m upper-level setback, or greater if required for overshadowing requirement elsewhere.	3 storeys (11.2-12.0m*) to 9-10 storeys (33.6m - 36.0m*).
ALEXANDRA PARADE CENTRAL	• Retain heritage frontage (and garden setback). • Match adjoining heritage eaves/ parapet, or lower. • 2 storeys (8m), 3 storeys (11.2m) to 4 storeys (14.4m). • Minimum 6m upper-level setback on the north side of Alexandra Parade and south side of Alexandra Parade (between Budd Street and Wellington Street). • Minimum 3m upper-level setback, or greater if required for overshadowing requirement elsewhere.	3 storeys (11.2m) to 6 storeys (20.8m).
ALEXANDRA PARADE EAST	• Retain heritage frontage. • Retain existing curtilage around the base of the Clifton Hill Shot Tower (approximately 6m from the street frontage). • 3 storeys (11.2m-12.0m*). • Minimum 6m upper-level setback.	3 storeys (11.2-12.0m*) to 8 storeys (27.2m to 32.0m*)

Note: * for C2Z sites only.

The following diagram illustrates a breakdown of these precinct boundaries (overleaf).

Attachment 1 - Attachment 1 - Alexandra Parade Built Form Framework

PRECINCT 1: ALEXANDRA PARADE WEST

The precinct comprises urban blocks and lots on both sides of Alexandra Parade between George Street (to the south-west) and rear of properties fronting Hilton Street (to the north-east) in Commercial Zone (C1Z and C2Z). To its north and south, the precinct is bound by a mix of streets and laneways, including Cecil Street to the south and Council Street to the north.

Preferred precinct character statement

Future development in Precinct 1 will retain primary view to the Shot Tower and reinforce the boulevard quality of Alexandra Parade as the entry into inner Melbourne and the Smith Street MAC (north end). The diversity of mixed heritage industrial and commercial forms will be preserved while high change around the Smith Street MAC entrance and moderate change elsewhere will be accommodated.

Taller developments around the junctions of Alexandra Parade with Smith Street will transition down to the north and south in response to the established surrounding heritage neighbourhoods. Further east, future development will be moderate due to heritage neighbourhood influence, assisting in maintaining the visual prominence of the Shot Tower in the broader context. Streetscapes within the precinct will support pedestrian amenity that balances the sense of enclosure through adopting new street walls without being overwhelming. Larger sites will be redeveloped to minimise continuous walling and to support visual permeability, as well as pedestrian linkages where possible.

Built Form Objectives

In addition to objectives found in the City of Yarra DDO2:

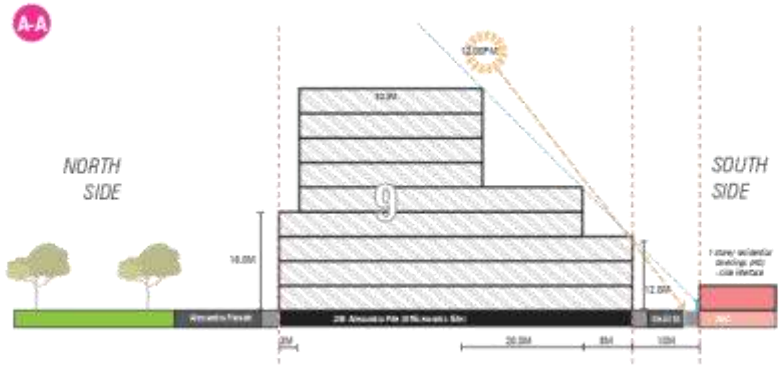
- To enhance the role of the boulevard by protecting its sense of openness.
- To protect the primary view to the Shot Tower.
- To retain heritage frontages.
- To realise high change around the Smith Street MAC that respects heritage and streetscape character, and moderate change elsewhere.
- To demarcate the northern entrance into the Smith Street MAC.
- To retain visual prominence of local landmarks.
- To support the permeability of pedestrian access and visual breaks of large urban blocks in the precinct.
- To minimise overshadowing impact on footpaths and the public realm.
- To ensure a visually more prominent street wall.
- To ensure a suitable transition to its residential interfaces towards the north and south of the precinct.

Precinct 1 Extent

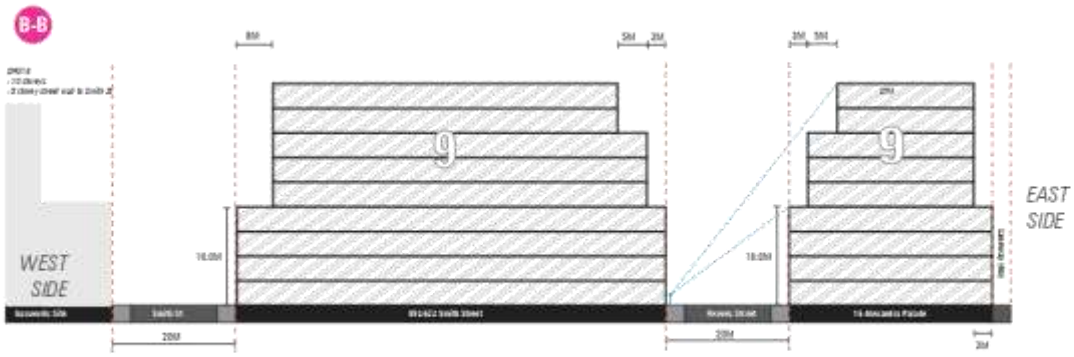
The southern side of Alexandra Parade within Precinct 1

Guidelines

1. Establish a clear distinction between a moderate street wall and rising form behind to maintain the sense of openness.
2. Ensure new infill street walls match the parapet height of adjoining heritage forms and achieve a balance between sense of enclosure and pedestrian scale and openness.
3. Retain existing front setbacks of contributory buildings, including front gardens.
4. Protect the primary view to the Shot Tower from Brunswick Street and Alexandra Parade intersection (north-east corner of the central median).
5. Retain the visual prominence of local landmarks at the Gasometer Hotel (484 Smith Street, Collingwood) and the former British United Shoes Machinery Co. Pty Ltd Factory (200 Alexandra Parade, Fitzroy).
6. Ensure new development on corner sites is designed in the round and 'turns the corner' to address all street frontages.
7. Encourage development that is made up of parts on large, non-contributory sites.
8. Ensure tall buildings do not appear as a continuous wall.
9. Ensure development fronting streets creates a continuous building edge at street levels and an integrated streetscape.
10. Encourage continuation of awnings over footpaths along Smith Street.
11. Ensure new development maintains solar access at the Spring Equinox (September 22) to:
    - Ensure new development minimises overshadowing of the Alexandra Parade central median at 12pm.
    - The western footpaths (3m from property bo undary) at 10 am and eastern footpaths (3m from property bo undary) at 2 pm.
    - Ensure new development minimise overshadowing of the first floor on the opposite side of Hilton Street at 10 am and 2 pm.
12. Ensure new development avoids the presentation of overly stepped or 'wedding-cake' profile.



Alexandra Parade: indicative cross section AA

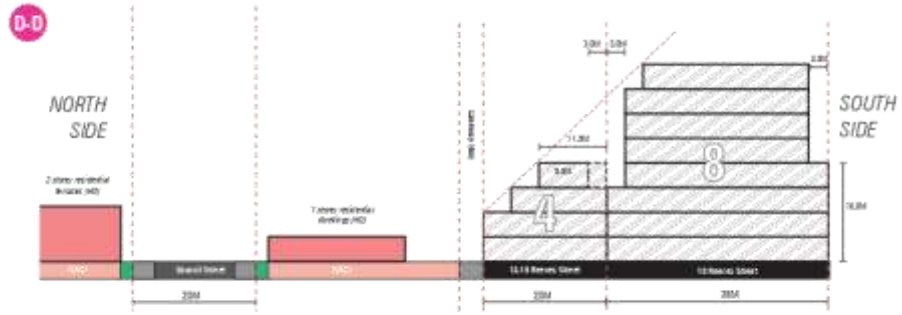


Alexandra Parade: indicative cross section BB

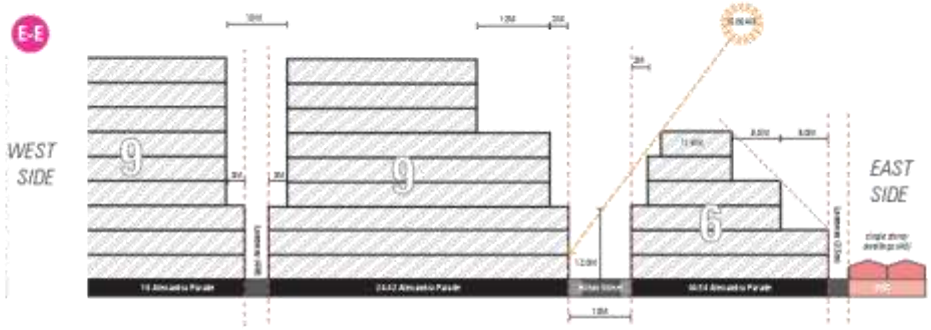
Attachment 1 - Attachment 1 - Alexandra Parade Built Form Framework

ALEXANDRA PARADE BUILT FORM FRAMEWORK

Alexandra Parade: indicative cross section CC



Reeves Street: indicative cross section DD



Alexandra Parade. cross section EE

Contributory/individually significant building

PRECINCT 2: ALEXANDRA PARADE CENTRAL

This precinct comprises lots with a primary frontage to Alexandra Parade in Mixed Use Zone (MUZ) and Residential Zone (GRZ4) between Emma Street and Charlotte Street to the south and between 406-412 Wellington Street and 60 Alexandra Parade to the north.

Preferred precinct character statement

The varied pattern of subdivision and building fabric to either side of Alexandra Parade will continue to enhance the Boulevard character of Alexandra Parade, retaining the sense of openness and solar access to the central median. New moderate infill development will be recessed behind the street wall along Alexandra Parade, gradually stepping down toward the east to heritage fabric and residential areas. Upper-level setbacks will be shaped befitting a 'street wall and setback' model, comprising a more robust response on the southern side of the boulevard and shaped along the northern side to protect key view lines towards the Clifton Hill Shot Tower and its residential influence.

Built Form Objectives

In addition to objectives found in the City of Yarra DDO2:

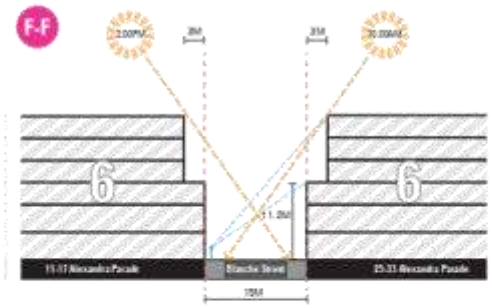
- To enhance the role of the boulevard by protecting its sense of openness.
- To protect the primary view to the Shot Tower.
- To retain visual prominence of the local landmark.
- To support incremental and moderate change that respects the heritage and the streetscape character.
- To retain heritage frontages.
- To minimise overshadowing impact on footpaths and the public realm.
- To ensure a visually more prominent street wall for infill sites.
- To ensure a suitable transition along its residential interfaces to the south.

Precinct 2 Extent

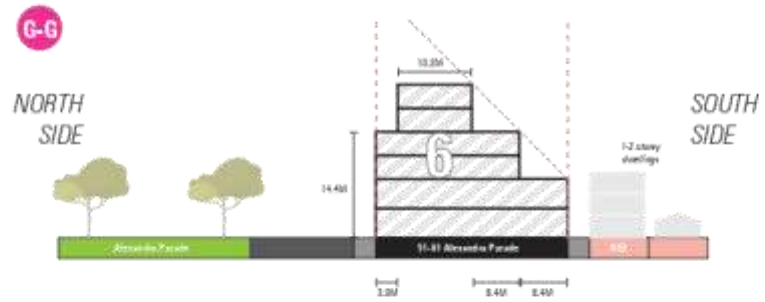
A non-contributory allotment within Precinct 2 between Wellington & Charlotte St

Guidelines

1. Establish a clear distinction between a low to moderate street wall and rising form behind to maintain the sense of openness.
2. Ensure new infill street walls match the parapet height of adjoining heritage forms.
3. Retain existing front setbacks of contributory buildings including front gardens.
4. Protect the primary view to the Shot Tower from Brunswick Street and Alexandra Parade intersection (north-east corner of the central median).
5. Retain the visual prominence of local landmarks at the Fox Hotel (351 Wellington Street, Collingwood).
6. Ensure new development on corner sites is designed in the round and 'turns the corner' to address all street frontages.
7. Encourage development that is made up of parts on large sites.
8. Ensure new development maintains solar access at the Spring Equinox (September 22) to:
   - Ensure new development minimises overshadowing of the Alexandra Parade central median at 12pm.
   - The western footpaths (3m from property boundary) at 10 am and eastern footpaths (3m from property boundary) at 2 pm.
9. Ensure new development complements the precinct heritage features (grain and rhythm).
10. Ensure new development avoids the presentation of overly stepped or 'wedding-cake' presentation.



Blanche Street: cross section FF



Alexandra Parade: cross section GG

PRECINCT 3: ALEXANDRA PARADE EAST

This precinct comprises lots in Commercial (C2Z) and Residential Zone (GRZ3) with a primary frontage to Alexandra Parade (north side) between Gold Street and Hoddle Street, forming the western boundary of the precinct.

Preferred precinct character statement

Incremental to moderate change is expected to occur across Precinct 3, consistent with its existing residential zoning regime. Moderate change is anticipated towards the Hoddle Street intersection, on commercial sites with frontage to the freeway reservation.

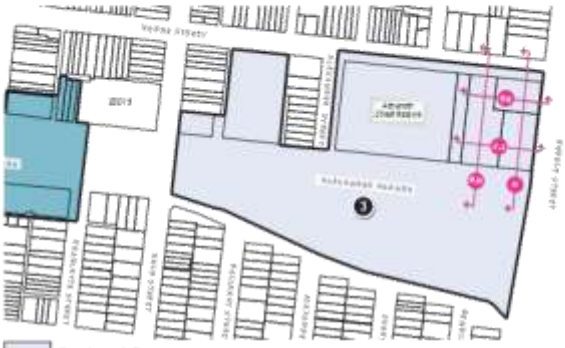
Future development will be shaped by retaining primary views to the Shot Tower and retaining its visual prominence in the local setting. Sites with development capacity will respond sensitively to the Murray Co. Wool Works building (local landmark) at the Hoddle Street corner, while managing a transition to surrounding heritage neighbourhood to the north and west.

Built Form Objectives

In addition to objectives found in the City of Yarra DDO2:

- To enhance the role of the boulevard by protecting its sense of openness.
- To support incremental and moderate change that respects the heritage and the streetscape character.
- To protect primary views to the Shot Tower.
- To retain visual prominence of the Municipal and local landmarks.
- To retain heritage frontages.
- To minimise overshadowing impact on footpaths and the public realm.
- To ensure a visually more prominent street wall.
- To support the permeability of pedestrian access and visual breaks of large urban blocks in the precinct.
- To ensure a suitable transition along its residential interfaces to the north.

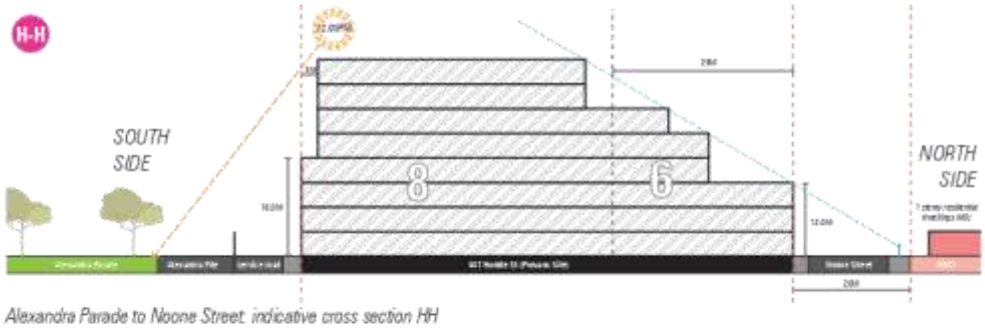
Existing conditions along Noone Street within Precinct 3



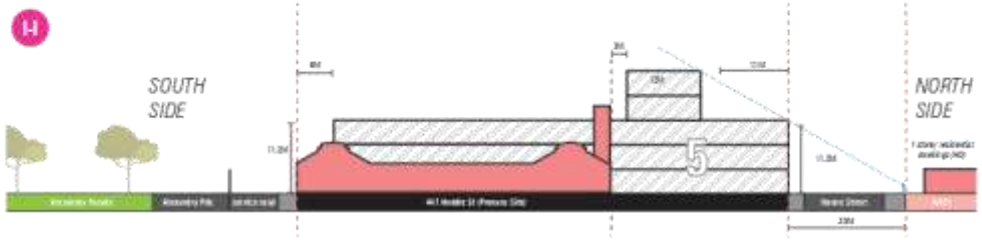
Precinct 3 Extent

Guidelines

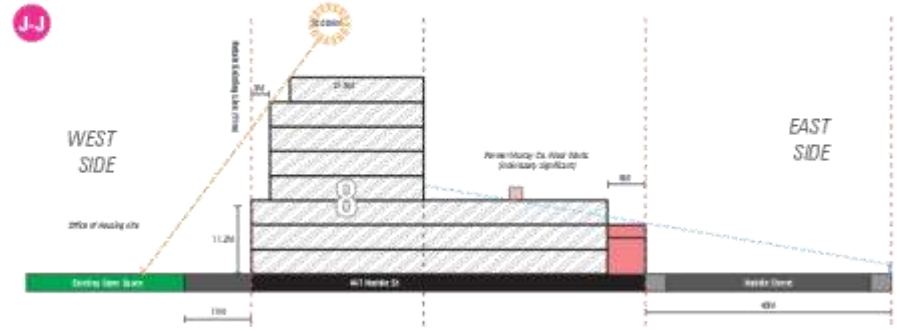
1. Ensure new development continues to support a predominantly low rise perimeter block form.
2. Recessive upper levels are to be presented as a distinctive element behind the street wall.
3. Ensure retention of the Shot Tower and its curtilages (6m from the base of the Shot Tower).
4. Protect primary views to the Shot Tower from Darling Gardens (Rotunda) and the Eastern Freeway (west of the Hoddle Street overpass).
5. Encourage retention of secondary and complementary views to the Shot Tower from:
   - Roseneath Street and Hoddle Street intersection (secondary view).
   - Gold Street and Queens Parade intersection (secondary view).
   - Alexandra Parade and Hoddle Street north-eastern intersection (complementary view).
6. Retain visual prominence of the local landmark at the former Murray Co. Wool Works (457 Hoddle Street) when viewed from the north eastern corner of Alexandra Parade and Hoddle Street.
7. Ensure new upper levels are designed to provide a 'neutral', or 'calm' backdrop to the heritage chimney at the former Murray Co. Wool Works site (457 Hoddle Street).
8. Ensure new infill street walls match the parapet height of adjoining heritage form.
9. Ensure new development on corner sites is designed in the round and 'turns the corner' to address all street frontages.
10. Encourage development that is made up of parts on large sites.
11. Encourage the retention of the existing mid-block laneway along the eastern boundary of the Office of Housing site (43 Noone Street) for pedestrian and visual permeability.
12. Ensure development fronting Noone Street is visually concealed above a 3-storey street wall when viewed from the northern footpath.
13. Ensure new development maintains solar access at the Spring Equinox (September 22) to:
    - Ensure new development minimises overshadowing of the Alexandra Parade central median at 12pm.
    - The western footpaths (3m from property boundary) at 10 am and eastern footpaths (3m from property boundary) at 2 pm.
    - Ensure new development minimise overshadowing of the existing open space at 43 Noone Street at 10am.
14. Ensure new development complements the precinct heritage features (grain and rhythm).
15. Ensure new development avoids the presentation of overly stepped or 'wedding-cake' profile.



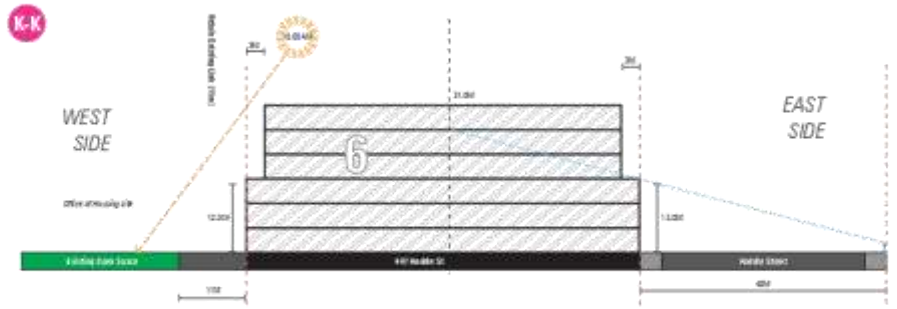
Alexandra Parade to Noone Street: indicative cross section HH



Alexandra Parade to Noone Street: indicative cross section II



Hoddle Street: indicative cross section JJ



Hoddle Street: indicative cross section KK

Contributory/individually significant building

4.4 General Built Form Guidelines

Built Form Recommendations

A range of specific built form recommendations and design guidelines have been developed for all precincts.

These built form guidelines focus on the Alexandra Parade Precinct, where future development is anticipated and design guidance is required.

Visually distinct additions and upper levels

Given the heritage character of the precinct, new buildings or additions should be designed to have a visually distinctive architectural expression from the heritage element. This is in order to ensure that new form can be clearly 'read' and understood as a more recent component. It also encourages contemporary architectural responses which will contribute to the 'richness' and diversity of built form.

Lightweight materials, colours and finishes that contrast with the prevailing masonry forms are also encouraged to assist in the clear distinction between new and old, while also assist in visually recessing new forms.

Architectural Considerations

To street frontages, expansive blank walls should be avoided and where visible from within the public realm, any blank walls need to be visually divided into small elements through architectural treatments or artistic decoration to reduce visual mass.

Fenestration patterns and facade solid to void proportions need to reflect the prevailing streetscape rhythm and presentation.

New forms should 'fit' within the prevailing streetscape character. Avoid overly busy and complex architectural expressions.

New forms should also ensure exposed party walls to side boundaries are designed to be visually dynamic to minimise visual bulk.

Equitable Development

Facilitate equitable development outcomes by adopting:

- A minimum of 4.5m from the boundary where a habitable room window is proposed.
- A minimum for 4.5m from the edge of a proposed balcony or terrace.
- A minimum of 3m from the boundary where a non-habitable room window or commercial window is proposed.
- Where the common side boundary is a laneway, the setback is measured from the centre of the laneway.
- ResCode applies to sites in residential zoned land.

Active and Semi Frontages

In Activity Centres and Mixed Use areas, buildings must provide sufficient activation at street level to foster 'life' on the street and provide opportunities to maximise safety via passive surveillance. Along commercial street such as Smith Street, active ground frontages are encouraged.

Along other streets, semi-active frontages are more appropriate. As these 'less active' frontages still maintain an appropriate level of passive surveillance, while also providing more privacy and seclusion to the inside of the building, befitting the nature of the use as a dwelling or office.

Direct pedestrian entries into ground floor uses is encouraged, particular on larger sites, with broad frontages.

Upper levels also provide opportunities for 'eyes on the street' and contribute to passive surveillance of the public realm. Windows and balconies that orientate towards the street (rather than to side boundaries) are encouraged.

Public Open Space provision

Public open space is an important element within urban areas, as is its spatial provision. In inner urban areas such as Collingwood, Fitzroy and Clifton Hill the provision of public parks is important to the social health and well-being of a local community. The Office of Housing Site at 43 Noone Street comprises a small (privately owned) pocket park central to the site.

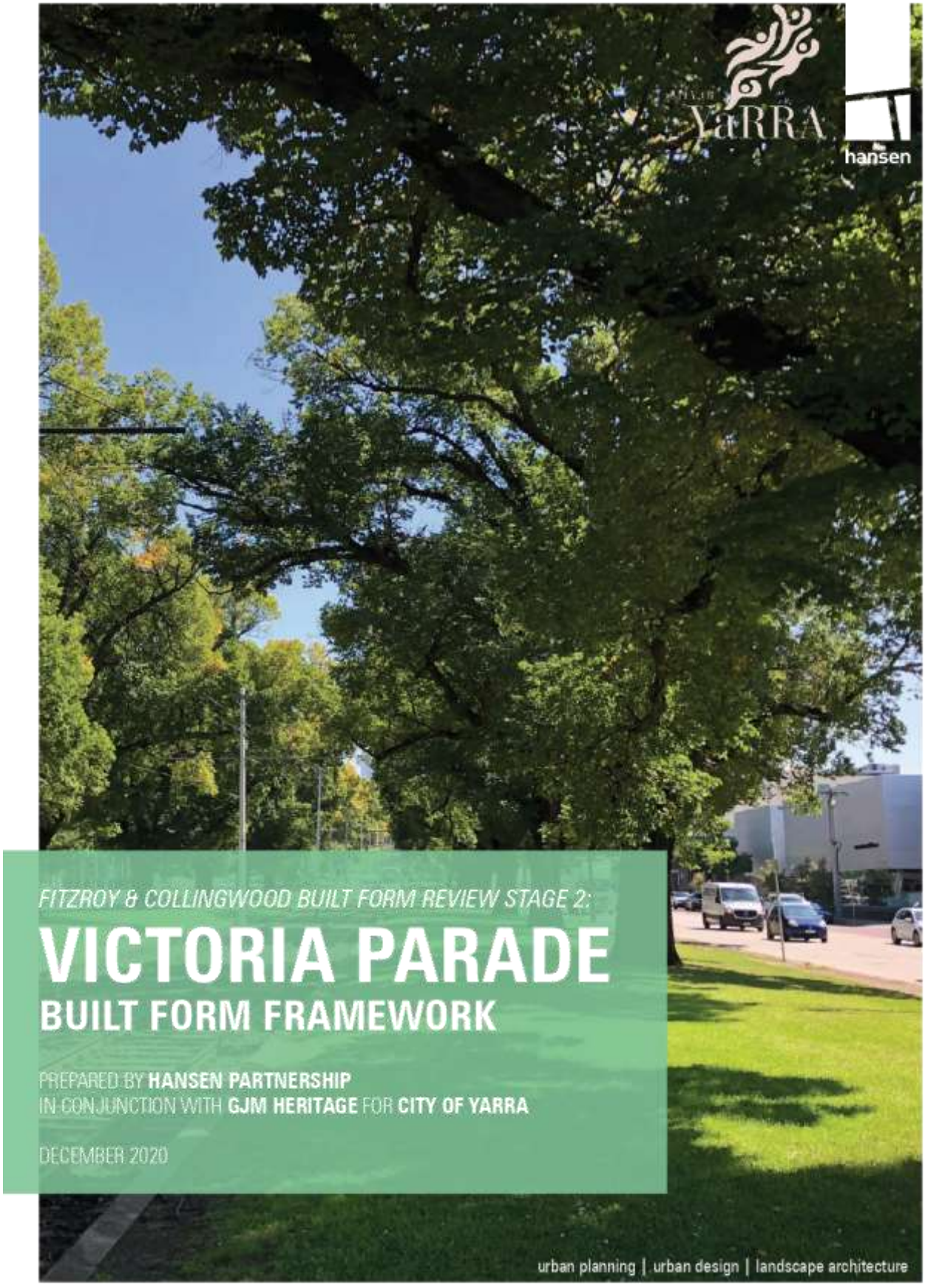
While there are no current plans for future pocket parks in the precinct, opportunity may exist when large sites are redeveloped, as well as along intersecting green streets where there are presently kerb outstands providing wider footpaths and landscape.

Services and Vehicle access

Ensure servicing and car parking is provided from secondary side streets or rear laneways.

The consolidation of services into basement levels is highly encouraged to mitigate extent of inactive, blank walls to the public realm.

Attachment 2 - Attachment 2 - Victoria Parade Built Form Framework



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The existing low-scale street wall framing the broad Boulevard of Victoria Parade.

Version	Final
Issue Date	December 2020

** Note: This Draft document is a part of a broader Built Form Review for the Brunswick Street and Smith Street Activity Centres : Built Form Review. It is a component of a broader body of work that sets out a future proposition for two of Yarra's key Activity Centre spines and their adjoining mixed use precincts.*

Preamble

The following urban design report has been prepared for the City of Yarra as the basis for an urban design vision for the Victoria Parade Precinct. It sets out a preferred built form framework underpinned by integrated urban design and heritage assessment.

The report has been prepared by a multidisciplinary team comprising Hansen Partnership (Urban Design) and GJM Heritage (Heritage) with the support of the City of Yarra's internal working group.

The study area is identified in Figure 1.

This report sets out the rationale for proposed built from controls for Victoria Parade and is underpinned by key components, namely:

Part 1: Victoria Parade - Context

Part 2: Victoria Parade - Influences

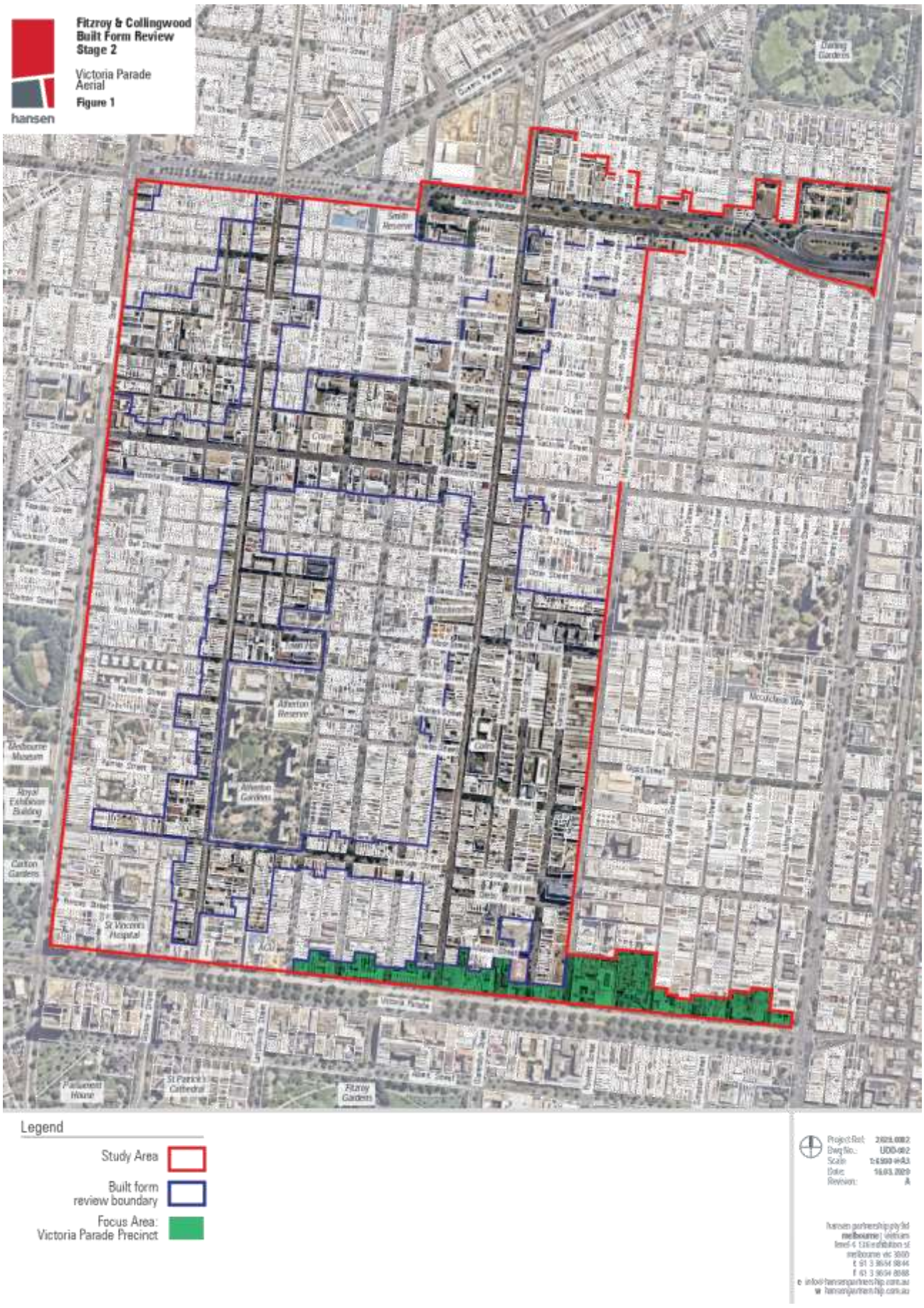
Part 3: Victoria Parade - Built Form Proposition

Part 4: Recommended Controls

The report is part of a broader Built Form Review.

Oblique View of the Victoria Parade Study Area and Surrounding Context

Attachment 2 - Attachment 2 - Victoria Parade Built Form Framework



PART 1: VICTORIA PARADE CONTEXT

The Brunswick Street and Smith Street Built Form Review is a broader urban design program to set a clear framework for future change within two of Yarra's key Activity Centres and their adjoining Mixed Use areas. Planning policy identifies such Activity Centres as areas for accommodating growth and change.

Therefore, these are the areas that must be carefully planned and managed in order to accommodate progressive change while protecting (or indeed enhancing) existing established character and heritage values.

Stage 1 of the project was initiated in May 2017 and encompasses large areas bound by Alexandra Parade (to the north), Victoria Parade (to the south), Wellington Street (to the east) and Nicholson Street (to the west).

Stage 1 of the project comprised the preparation of Built Form Frameworks for Gertrude, Brunswick and Smith Streets in 2019. The Johnston St Precinct and Fitzroy East Precinct reports were completed in June 2019 and a Collingwood Precinct report was prepared in June 2018.

As part of the the Stage 1 process, extensive analysis of the existing conditions was undertaken and documented within an overall Background report. This comprehensive analysis identified and divided the overall Review Area into ten 'place- specific' precincts. Furthermore, a series of guiding objectives were identified to be contemplated across ten defined precincts.

This report addresses the **Victoria Parade Precinct** (Figure 1 overleaf), forming part of the Stage 2 Built Form Review. A key consideration in the preparation of a Detailed Precinct Review for Victoria Parade relates to its highly mixed built form character including a mix of fine grain heritage forms and commercial and warehouse buildings occupying large non-heritage affected allotments. Two separate reports were also prepared for Fitzroy West 'Mixed Use Area' Precinct and the Alexandra Parade 'Boulevard' Precinct in 2020 (as part of Stage 2).

1.1 Overarching Built Form Objectives

The following 8 objectives have been identified for the Brunswick and Smith Streets Built Form Review:

Objectives:

1. Recognise and carefully manage potential in key areas within the Activity Centres.
2. Highlight the character distinctions between the different retail Streets and mixed use precincts within the Activity Centres.
3. Reinforce the traditional Victorian cityscape of heritage Streetscapes as dominant elements, including significant corner elements and identified local landmarks.
4. Ensure continued diversity through sensitive infill within traditional Victorian Streetscapes.
5. Shape the retail Streets and mixed use areas to ensure high quality, people-oriented public realm.
6. Ensure development encourages walking, cycling and public transport usages through layout and design responses.
7. Ensure new development is sustainable and adaptive over time.
8. Manage the built form profile of new development to avoid adverse impact to surrounding areas, including heritage places, Streetscapes and residential interfaces.

The central median of the Victoria Parade boulevard, a boundary between the City of Melbourne (south - left) and the City of Yarra (north - right)

10 Precincts

The 10 precincts within the Brunswick & Smith Street Built Form Review are:

Stage 1 (May 2017 to November 2019)

- Precinct 1: Brunswick Street (B);
- Precinct 2: Smith Street (S);
- Precinct 3: Gertrude Street (G);
- Precinct 4: Johnston Street (J);
- Precinct 6: Fitzroy East (FE);
- Precinct 7: Collingwood (C);
- Precinct 8: Town Hall (TH);

Stage 2 (Commenced February 2020)

- Precinct 5: Fitzroy West (FW);
- Precinct 9: Alexandra Parade (A); and
- Precinct 10: Victoria Parade (V).

This report addresses **Precinct 10: Victoria Parade.**

1.2 Built Form Precincts

Based on the initial analysis phase of the project the following Precincts were identified spatially as relatively coherent parts. The Precincts are largely defined by function as either:

- An Activity Spine;
- A Mixed Use Area; or
- A Boulevard.

Activity Spines

The Activity Spines are defined by the 'traditional' retail and commercial functions along the four main Streets within the review area of:

- Brunswick Street;
- Smith Street;
- Gertrude Street; and
- Johnston Street.

Mixed Use Areas

The Mixed Use Areas are defined by the mixed use functions present in the non-residential land located generally in local Streets, behind the Spines. The four renewal areas within the review area are:

- Fitzroy West;
- Fitzroy East;
- Collingwood; and
- Town Hall.

Boulevards

The Boulevards are the non-residential land to the northern and southern edges of the review area which front the broad road corridors of:

- Alexandra Parade; and
- Victoria Parade (this report).

Attachment 2 - Attachment 2 - Victoria Parade Built Form Framework

PART 2: PRECINCT INFLUENCES

As one of Yarra's main boulevards, Victoria Parade forms defining edges to some of Yarra's neighbourhoods (Fitzroy, Collingwood) including some of its premier Major Activity Centres along Smith and Brunswick Streets. It is anchored by major north-south movement corridors including Hoddle Street to the east and Nicholson Street to the west. The study area itself terminates at the intersection of Victoria Parade and Napier Street.

Victoria Parade is not a designated activity centre in the Yarra Planning Scheme. However, it is well serviced by public transport and nearby health, education and community infrastructure bounding the Precinct to the west.

The extent of the Victoria Parade Precinct is set out in Figure 2 and described below.

Boundary Description

This precinct comprises land subject to the Commercial 1 Zone (C1Z) on the northern side of Victoria Parade between Napier Street in the west and Hoddle Street in the east, except for one C2Z property between Rupert and Cromwell streets and one MUZ property to the rear of Victoria Parade.

The Precinct predominantly comprises properties fronting Victoria Parade, with a key anomaly of the Collingwood English Language School, extending the precinct boundary across Mason Street, extending north along Cambridge Street to the end of the PUZ3 boundary with the Mixed Use Zone (MUZ) beyond.

The extent of the Victoria Parade Precinct is set out in Figure 2.

Built Form Character

Victoria Parade is a diverse precinct from a built form perspective. However, the grand boulevard presentation of the streetscape comprising a broad central median and established street trees create a strong, unifying public realm condition. The Precinct forms the southern boundary of the broader study area between Napier Street to the west and Hoddle Street to the east. The study investigates properties on the northern side of Victoria Parade that are intercepted by a number of north-south streetscapes including George, Gore, Smith, Cambridge, Rokeby, Rupert, Cromwell, Islington and Wellington Streets.

These north-south streets represent a diverse road network comprising a mix of narrow one-way and broad, tree-lined streets. Lining them and Victoria Parade are a range of building typologies on a varied subdivision pattern, speaking to the ad-hoc nature of development occurring in this part of Collingwood since the mid-19th century. This varied subdivision is generally finer grained toward the western extent at Napier Street, hosting rows of traditional Victorian terraces.

The consistent, fine grain subdivision generally erodes to the east of Wellington Street into larger allotments comprising both ageing and contemporary warehouse forms. However, segments of Victoria Parade are also interspersed with clusters of the fine grain terrace buildings. Recent development within the study area is generally limited to refurbishments, extensions to heritage terraces and commercial tenancies occupying large landholdings toward Hoddle Street. These generally comprise a mix of commercial typologies including contemporary large format showroom buildings and big-box retailers such as Bunnings. Despite a mixed urban form and wide corridor, Victoria Parade generally has a low street edge (within the study area) that can be observed when traversing to the east.

The Baden Powell Hotel (local landmark) and adjoining fine-grain terraces fronting Victoria Parade

2.1 Foundations

Setting a vision for the Victoria Parade Precinct must be underpinned by an understanding of the diverse physical conditions, including the fabric of existing and approved developments, pattern of heritage forms, critical views as well as other relevant considerations which form the 'foundations' of a future built form framework and development recommendations. This is illustrated in Figure 3 and can be described as follows:

Heritage

All properties between Napier and Wellington Streets are subject to Heritage Overlay (HO344 South Fitzroy Precinct), comprising a mix of individually significant and contributory intact buildings from the Victorian and Edwardian-era. The heritage building stock on these blocks fronting Victoria Parade predominantly includes fine-grain dwellings with some cases of commercial and small warehouse forms. A VHR listed Edwardian-era terrace building is located at 203 Victoria Parade. The single non-heritage site is a large land holding on the western corner of Smith Street currently occupied by a low commercial form (McDonald's site at 1-13 Victoria Parade). HO334 (Victoria Parade Precinct) between Smith and Wellington Streets includes the Former St. Saviours Church and Collingwood English Language School.

East of Wellington Street, only 4 properties subject to Heritage Overlay. These are HO138 (Prince Patrick Hotel and Shops) and HO139 (Former Ebenezer Particular Baptist Church), both identified as 'local landmarks.' These properties both occupy corner locations, bookending otherwise more contemporary medium and large format commercial and warehouse forms. While not under Heritage Overlay, the eastern boundary of the Precinct is formed by a row of single and double storey traditional 'shop' buildings between Islington and Hoddle Streets.

Local Landmarks

Like many main roads and boulevards, Victoria Parade comprises a number of local landmarks which act as wayfinding elements along the length of the Boulevard. These more distinct and noticeable buildings display articulated corners which punctuate the streetscape with distinguishing architectural features. Along Victoria Parade, 4 of these 'local landmarks' buildings have been identified in collaboration with GJM Heritage. These local landmarks are identified as:

- Baden Powell Hotel (61-65 Victoria Parade);
- former John Franklin Hotel (75-77 Victoria Parade);
- Prince Patrick Hotel & Shops (135-141 Victoria Parade); and
- former Ebenezer Baptist Church (139 Victoria Parade).

The VHR 'Henkell Brothers' terrace at 203 Victoria Parade

Collingwood English Language School

Former Ebenezer Particular Baptist Church (Ruper Street corner)

The Prince Patrick Hotel & Shops

Fine-grain heritage

Clustered rows of continuous, attached, 1-2 storey Victorian dwellings and shops are a defining character of the precinct west of Wellington Street, occasionally interrupted by larger footprint commercial and warehouse forms. The traditional forms vary in architectural style, detail and finishes, but represent the traditional residential and shop buildings typical of the Collingwood residential and commercial spines. Examples of consistent edges of fine-grain heritage buildings are found on the urban block between Smith and Cambridge Streets and between George and Gore Streets. Traditional residential forms are distinguished from shop buildings by upper level balconies and either garden setbacks or narrow colonade setbacks inset from the street boundary.

A row of fine grain terraces between Napier and George Street

Non-contributory sites

There are several non-contributory, broad frontage sites across the precinct. These sites are typically located on corners between clustered rows of heritage fine-grain buildings. The urban block between Gore and Smith Street almost completely comprises non-contributory buildings fronting Victoria Parade, except for the individually significant and Victorian Heritage Registered 2-storey terrace at 203 Victoria Parade.

Commercial warehouse extending between Cromwell and Islington Streets

Warehouses & Commercial Stores

Unlike the majority of other precincts in the broader study area, heritage warehouses are not a defining feature of the building stock within the Victoria Parade precinct. Complementing and bookending clusters and rows of terraces and larger non-heritage commercial buildings. More contemporary commercial warehouse forms can be found east of Wellington Street, such as the Porsche dealership and Bunnings Warehouse – recently converted from a commercial office building. These typically comprise a 2-3 storey scale, wide extents of opaque glazing and a departure from the traditional architectural style of the Precinct surrounds.

Example of a contemporary commercial form east of Wellington Street

Recent development trends

Urban blocks west of Wellington Street has experienced limited levels of change in the form of medium density housing such as a 6-storey residential development set behind a traditional 2-storey street wall (33 Victoria Parade, Collingwood). There are approvals for 3 different 3-storey proposals within the study area, generally 'pop-ups' above traditional building stock. East of Wellington Street, development in recent years has predominantly comprised large format commercial buildings such as Bunnings Warehouse. The edges of the precinct have undergone greater degrees of change including a 12-storey building under construction at ACU on the western corner of Napier Street (beyond the study area boundary), as well at 1-35 Wellington Street upwards of 11 storeys - maintaining the existing corner heritage building fronting Victoria Parade, within the study area. Significant development has also occurred opposite Victoria Parade (outside the study area) within the City of Melbourne, upwards of 14-storeys.

Example of a contemporary development behind the traditional street wall

Varied allotment configurations

The study area comprises a significant variance of allotment sizes, frontage widths and depths contributing to the diverse character of the precinct. As described in the Statement of Significance for the South Fitzroy Heritage Precinct (HO344) *"the lack of controls on the size and orientation of subdivision allotments and the width of roads, together with a general lack of cooperation or coordination between landowners, led to the emergence of an ad-hoc street pattern and layout of allotments…"*

While this variance is clear in the Victoria Parade Precinct, fine-grain allotments are rarely found in isolation and are typically grouped together. Singular medium and large allotments are more commonly anomalous within an urban block and streetscape, than fine-grain lots. The depth of allotments is generally influenced by the availability of rear access which tends to both extend or shorten the rear boundary of allotments as they historically sought interface and access to laneways.

Rear interfaces

Unlike other precincts within the Built Form Review, allotments in the study area do not have a consistent rear laneway condition. Given the varied allotment configurations, land use pattern and street network pattern, rear interfaces within the study area comprise a mix of laneway and direct abuttal conditions to both residential and commercial allotments. There are also instances of lots along Victoria Parade between Smith and Wellington Streets with a rear interface to the Mixed Use Zone. East of Wellington Street, the study area boundary is formed by Commercial 2 Zoned lot, generally without laneways. A number of these allotments within and outside the study area have internal private service access lanes along the study area interface. This varied pattern of interfaces (along with other factors) will continue to guide a varied built form response throughout the precinct.

Street width

The study area comprises a clear hierarchy of street widths, contributing to a structured experience and streetscape character. The widest street is the boulevard typology of Victoria Parade, which generally widens from 70m at the western extent of the study area, to 75m toward the east near Hoddle Street.

Between and including Napier and Wellington Streets, the north-south streets are consistently 20m wide, but are distinguishable due to streetscape attributes and the type of activity they draw. Some streets, such as George Street have limited entry/exit access from Victoria Parade during peak hour traffic times. Streets east of Wellington Street are all 10m wide, representing the narrowest streets in the hierarchy, accommodating one-way traffic movement and on-street parking. The study area also has an interface with Hoddle Street, a 45m wide arterial road. Pedestrian connectivity across the parade is limited to key intersections at Smith, Clarendon, Wellington and Hoddle Streets.

Example of a rear interface between commercial allotments

Laneway interface between NRZ and C1Z allotments

20m wide, one-way streets west of Wellington Street (Gore Street pictured)

10m wide, one-way streets east of Wellington Street (Islington Street pictured)

Boulevard & Green Streets

The boulevard profile is generally symmetrical across its entire length with carriageway widths varying to include turning lanes at key junctions. The grassed area south of the tram corridor is generally wider than that of the northern grassed area. Frequent canopy trees are evenly distributed along both sides of the grassed median across the extent of the study area. Some segments of the median contain paved footpaths, without any west of Smith Street.

Along with Victoria Parade, the 20m wide Napier, George and Gore Streets comprise significant mature canopy vegetation (deciduous Plane Trees) within the road reserve, enclosing the streetscape. Other streets within the precinct typically have limited street trees and vegetation. Wellington Street footpaths are lined with street trees to a degree, but without the same density and maturity as seen in the north-south streets further east. These green streets contribute to the 19th Century character complementing fine-grain traditional building stock. North-south pedestrian cycle connections across Victoria Parade are available at key junctions including Smith, Clarendon Wellington and Powlett Streets. Dedicated and protected bike lanes are available along Smith Street (south of Gertrude Street) and Wellington Street respectively.

Key Junctions

Key junctions in the Precinct occur at the Smith Street and Wellington Street intersections, which are considered prominent junctions serving as important wayfinding elements, contributing to the clear division in character along the Parade. These key junctions also accommodate movement corridors including key bicycle routes. These are important connections in navigating modes of transport across the Parade that experiences high volumes of east-west traffic. Hoddle Street is a major intersection at the eastern edge of the study area and a key entrance to the Victoria Street MAC. The junction accommodates tram and vehicle movements with limited pedestrian and cyclist amenity.

Open Space

There is a lack of notable public open space within the precinct, however the significant Fitzroy Gardens and smaller scaled Powlett Reserve are located 200m south of Victoria Parade along the southern edge of Albert Street (City of Melbourne).

Topography

The landform along Victoria Parade falls gradually from west to east, with a noticeable slope occurring between Smith and Wellington Streets. Some of the larger and particularly wider sites along Victoria Parade comprise sections of raised ground floors as broad building floorplate fail to respond to the change in natural ground level at the street frontage. The landform towards Hoddle Street flattens.

Interlinking canopy vegetation of George Street

The central median of the Victoria Parade boulevard accommodating tram lines

Hoddle Street intersection looking toward Victoria Street

The eastern fall of topography along Victoria Parade east of Smith Street

Adjoining built form precincts

The eastern portion of the Victoria Parade Precinct adjoins two other precincts of the broader study area. These are the Smith Street Activity Spine and the Collingwood Mixed Use Precinct. The Smith Street corridor represents a Major Activity Centre within the City of Yarra comprising continuous segments of intact heritage retail streetscapes. The southern end of the precinct is subject to a request for an interimm DDO37 proposing a built form response upwards of 24m in building height.

The Collingwood Mixed Use Precinct continues to undergo considerable urban renewal, guided by the interim DDO23. This includes development sites immediately abutting the Victoria Parade study area including at 1-35 Wellington Street within the adjoining Mixed Use Zone. Further west of the Precinct along Victoria Parade is the southern termination of the Brunswick Street Activity Spine which like the Smith Street Activity Spine, intersects the Gertrude Street Activity Spine. Further east beyond Hoddle Street is the Victoria Street Activity Centre, having recently undergone a Planning Scheme Amendment introducing updated built form controls under the interim DDO22.

Hinterland influences

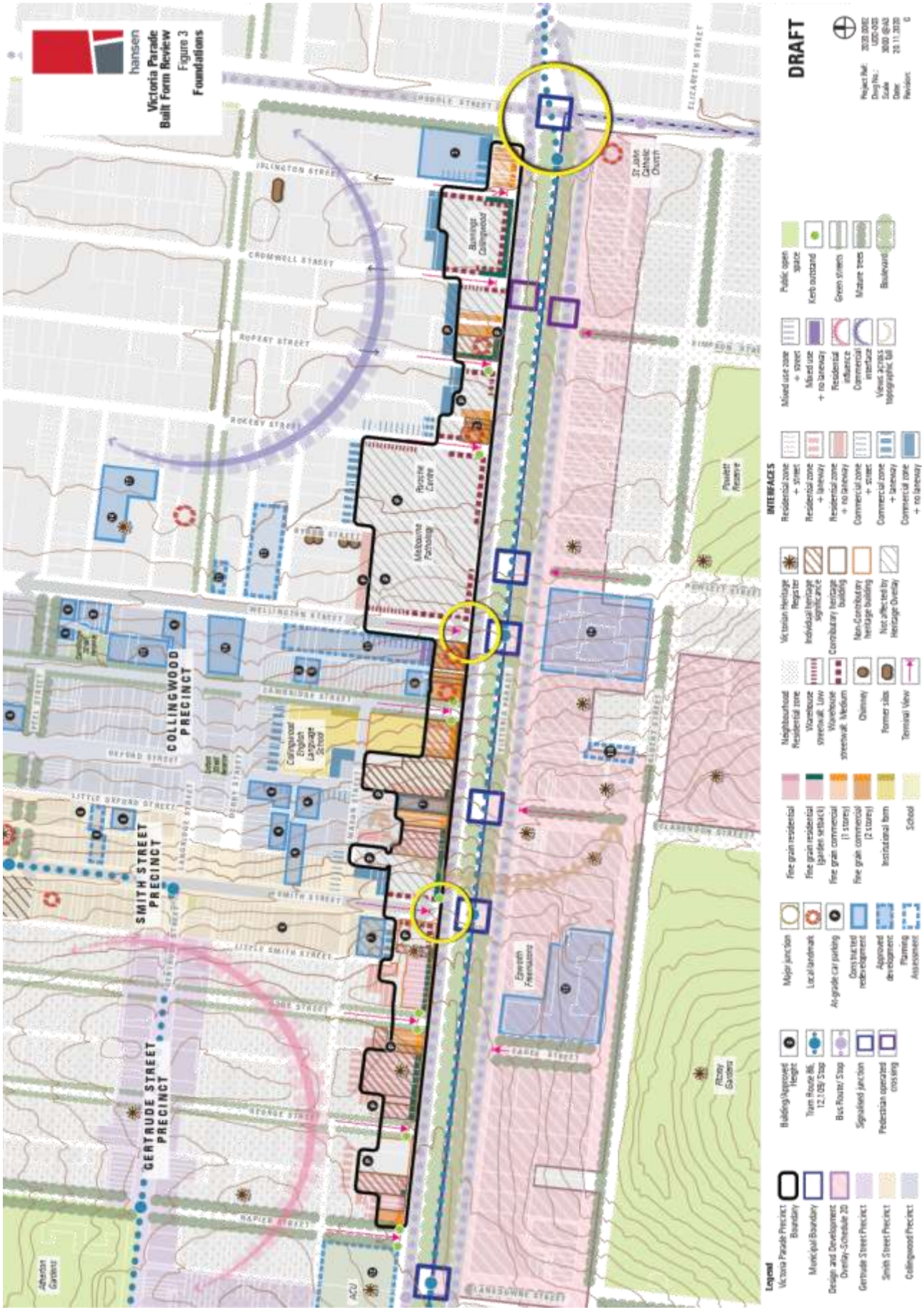
The built form pattern along the Victoria Parade corridor is strongly influenced by the nature of the streets and inboard land use of the surrounding hinterland areas. Along the northern side of Victoria Parade are three different hinterland precincts. These areas are divided by Smith and Wellington Streets, with land to the west of Smith Street comprising the residential Streets of Fitzroy. Land between Smith and Wellington Streets comprises a mixed use pocket at the southern extent of the 'Collingwood Slope'. To the east of Wellington Street the hinterland reflects its industrial past and presently comprises a diverse mix of warehouse and commercial forms.

Land undergoing development in the adjoining Collingwood Mixed Use Precinct

The historic industrial hinterland influence east of Smith Street

The historic residential hinterland influence west of Smith Street

Attachment 2 - Attachment 2 - Victoria Parade Built Form Framework



2.2 Victoria Parade Precinct Built Form Framework

In response to foundation matters, a Built Form Framework has been advanced to reinforce locations for varying levels of change within the study area. A Framework is not definitive (like a Built Form Control Plan), instead it seeks to identify critical 'gestures' of the City. In this instance, the framework recognises the importance of the following attributes- Refer to Figure 4:

Capacity

The urban blocks east of Wellington Street predominantly lack heritage fabric and consistency. They are also distinguished from the blocks west, to the broader and deeper nature of lots (occupying large portions or entire urban blocks) land use patterns and building typologies; currently comprising showroom and large format retail and commercial buildings.

Future urban forms on these capacity blocks should reference the established and finer grained character west of Wellington Street, ensuring new development is pedestrian scaled at lower levels and are made up of 'parts' as to not be intepreted as large, single masses. This will contribute to unifying the streetscape character along Victoria Parade helping to re-emphasise the boulevard.

Varied Streetscape Profile

Western urban blocks between Napier Street and Wellington Street have a more varied streetscape profile. While there are segments in the streetscape baring a more ordered resemblance, these segments are generally broken by larger and deeper non-contributory sites, particularly at corners, such as at the Smith Street junction. The streetscape profile of continuous rows of attached contributory and individually significant buildings between Wellington Street and Smith Street are varied in streetscape profile due to varied uses and subdivision pattern.

Future built form should reference the 'varied' condition and adopt a more customised response while acknowledging the sensitivity of its residential interface to the rear. Continuation of street wall definition along Victoria Parade should also be contemplated, as the current experience traversing through the corridor gives a relatively consistent low street edge condition (albeit slightly raised where the topography falls towards the east). This impression should generally be retained in future development.

Boulevard Address

Victoria Parade defines a key traditional approach between the north-east corner of the Hoddle Grid and the main north-south movement corridor of Hoddle Street to the east. It also defines the municipal boundary between the City of Yarra and the City of Melbourne. Its broad central median is lined to mature canopy planting and comprises a central tram line provision within an otherwise spacious grassed verge. Solar access to the central median will maintain ensure long term viability of the canopy planting, retain attractive presentation into Melbourne's CBD and maintain pedestrian amenity along footpaths and at tram stops. Future development should continue to ensure solar access to the central median is protected.

The transition to larger allotments east of Wellington Street

Large Smith Street junction allotments bookending finer-grain rows

Corner hotels, set back residential terraces and shop buildings contributing to the varied streetscape profile

The Victoria Parade boulevard environs

Varied Subdivision Pattern

The rhythm of block sizes is highly varied throughout the Precinct due to ranging lot widths and depths, warranting a varied response. West of Wellington Street, rows of fine grain allotments are bookended by larger corner lots. When compared to blocks further east, these allotments are significantly shallower with many immediately abutting residential and mixed-use allotments to their rear (north). In contrast, significant infill can occur at the eastern end of the Boulevard in response to deeper and larger lot sizes, generally not constrained by sensitive residential abuttals.

Large allotments east of Wellington Street present a contrast to finer grain urban blocks west, and will need to have regard to improving visual and physical permeability through upper level separation, or ground level linkages that line up with perpendicular laneways and streets. This is key to ensuring a pedestrian friendly environment is achieved and in breaking up potential built form mass.

Key Junctions

Future built form can contribute to junction definition, to assist in wayfinding and sense of place. The 'boulevard' condition already exhibits a strong sense of place. However, where the parade intersects with other 'main streets' at Smith, Wellington and Hoddle Streets, future forms should be shaped to retain primacy of the boulevard condition. Pedestrian amenity (solar, sense of enclosure and ground level activation) should be prioritised at these key corners given the increased footfall associated with commercial activities. A number of secondary, T-junctions occur at the termination of several streets at the parade, resulting in terminal views to and from the boulevard. The built form environs framing these views should be considered to ensure the boulevard character visually projects into side streets.

Key Pedestrian Connections

Smith, Wellington and Napier Streets are important perpendicular streets with designated sustainable transport routes between Collingwood and Clifton Hill. At the Victoria Parade junctions, these north-south links are provided with signalised pedestrian and cycle crossings. Where increased pedestrian footfall can be expected, street level activation and long term amenity to public realm (solar access, wind effect, pedestrian scale consideration) along these streets should be prioritised.

East of Wellington Street, properties are within a 500m walk of North Richmond station. Therefore, streets in this range are also likely to expect increased pedestrian footfall.

An increase in pedestrian permeability can be contemplated via the continuation of Byron Street in future redevelopment of the urban block between Wellington and Rokeby Streets.

The triple fronted Bunnings allotment as viewed along Islington Street

An anamalous allotment boasting mulitple street frontages

Southwest corner of the Wellington Street junction undergoing change

Wellington Street provides bicycle connection to the northern Alexandra Parade

Green Streets

The Precinct is punctuated by the north-south 'green streets' of Napier, George and Gore Streets, all comprising 20m road reserves and are defined by the large established canopy trees. These streets are primarily residential and their junctions comprise higher amenity thresholds, through the provision of kerb extensions and public 'pause places' for traffic calmning and ease of pedestrian movement. It is imperative that future development continues to support high amenity environments for pedestrian movement, including the protection of solar access.

Slope

There is a gradual slope from west to east along Victoria Parade, noticeably falling beyond the Smith Street junction. Larger sites with broad frontages should respond to the natural fall in the land, stepping future buildings and their ground floors to enable active and engaging street level conditions, avoiding the presentation of blank walls at ground level.

Heritage Values

The western urban blocks between Napier and Wellington Streets have considerable heritage value with a significant number of allotments graded contributory or individually significant. This includes two Victorian Heritage Registered buildings, both mid-block between George and Smith Streets. Other assets include corner pub buildings and rows of Victorian terraces. Adjoining these blocks are perpendicular residential streets (within the NRZ). They are typified by low rise, fine grain heritage buildings. There is limited opportunity for a significant change along these residential streetscapes. Future development along Victoria Parade will have to consider its implication on this interface. A key anomaly to the western heritage fabric is the Smith Street junction, where both corner allotments have no heritage value.

Blocks east of Wellington Street extending to Hoddle Street present a stark contrast, with only four properties under Heritage Overlay, including the Former Ebenezer Particular Baptist Church. These blocks represent a clear departure from the fine grain traditional fabric to the west, typified by larger and deeper allotments occupied by more contemporary commercial forms.

Transition to the rear (north)

To the north, behind the Victoria Parade spine is a distinct pattern of primarily moderate grain commercial properties to the east of Wellington Street and fine grain residential properties to the west of Smith Street. The central section (between Smith Street and Wellington Street) comprises a varied condition and a gradual transition between the two clear hinterland conditions. All properties within the precinct front onto the boulevard as their primary address, with northern boundaries forming their rear interfaces. Site's abutting the more sensitive residential properties will need to respect the low-scale character and amenity conditions from abutting backyards. Sites abutting commercial properties will be less constrained, however building separation and equitable development considerations are relevant.

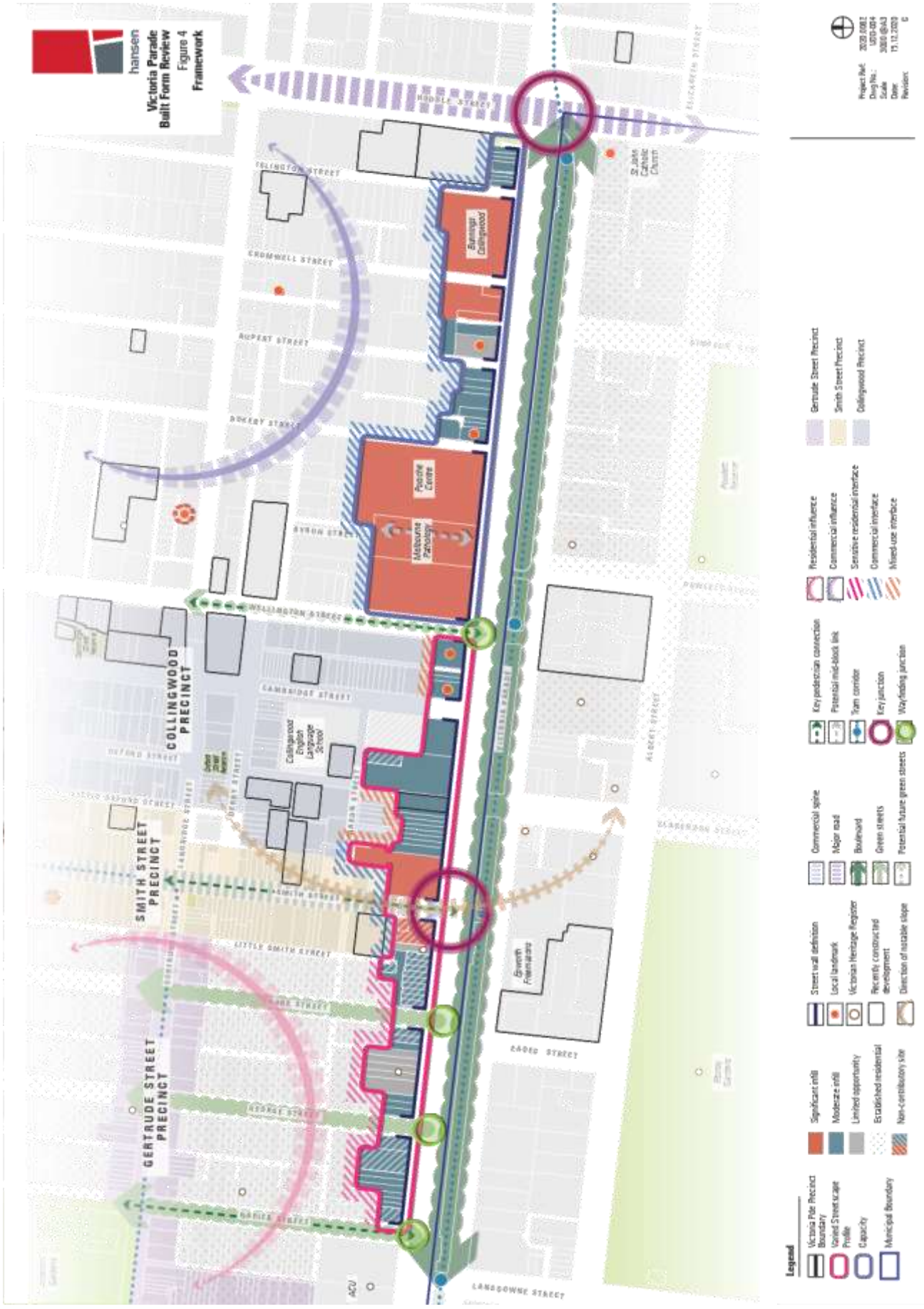
Example of a Green Street carrying the boulevard setting further north

A row of attached terrace buildings west of Wellington Street

The VHR listed Henkell Brothers terrace adjoining a site with no heritage value

Perpendicular heritage streetscapes west of Wellington Street

Attachment 2 - Attachment 2 - Victoria Parade Built Form Framework



Future Character Statement

Given this 'Framework' for change, the following future character statement is recommended.

Victoria Parade will continue to be primarily influenced by its boulevard address, key to the image and address to the municipality.

Overall, future development will reinforce the Victoria Parade boulevard as the key eastern approach into the CBD, through greater street-edge consistency and demaracation of key junctions. The built form proposition will recognise important pedestrian movement between public transport, employment areas and Activity Centres in the broader precinct.

The western end of the precinct will comprise moderate infill development that respects the prominent heritage fabric and varied street wall conditions. Opportunity for a higher development scale to the east will be realised, while creating a consistent street edge that balances enclosure and openness at the street wall to achieve a pedestrian scaled environment. Uppermost levels of taller development east of Wellington Street will be shaped by the retention of the high-amenity boulevard setting.

Framework Principles

In response to this distinction in the precinct's urban fabric, the preferred future-built form character will seek to build on its key attributes to re-emphasise the grand boulevard setting by adopting the following principles:

1. Establish an urban form that is shaped by retaining the amenity of the open streetscape profile of Victoria Parade, central median and its established street trees to ensure a pedestrian scale in an emerging employment and Activity Centre context.
2. Respond to the eastern urban blocks with greater capacity for moderate change and demarcate the southern entrance into the Smith Street MAC.
3. Establish a consistent and strong street edge definition that provides a transition in street wall along Victoria Parade to lower, and heritage sensitive building fabric.
4. Respond to the predominant heritage fabric west of Smith Street with generally moderate infill and lower street walls.
5. Provide transition where urban blocks adjoin established residential edges to the north.
6. Respond to the scale and form of existing and approved development within the Precinct and at its edges.

PART 3: BUILT FORM PROPOSITION

The Built Form Proposition has been derived from the Built Form Framework which was informed by the Foundations Analysis and underpinned by the overall Background Analysis.

The Victoria Parade Precinct Built Form Proposition demonstrates block by block and street by street parameters for the precincts' evolution of new development. The identified parameters are neither fixed, or absolute but are intended to guide future change. The proposed proposition or 'controls' are represented in Figure 4 and are derived from the following basis:

- Heritage assessment and advice;
- Municipal Housing Strategy;
- Precinct character;
- Street proportions;
- Parade Presence;
- Solar access to the Public Realm;
- Local landmarks;
- Heritage Street walls and upper levels;
- Heritage frontage;
- New street walls and upper level setbacks;
- Upper level setbacks for non-contributory sites;
- Street corners;
- Transitions;
- Residential interfaces (including laneway);
- Non-Residential Interfaces (including laneway);
- Building separation, amenity and equitable development;
- Sites in Residential Zone; and
- Future Shared Streets.

The rationale for height parameters is outlined as follows:

3.1: Basis for Height Parameters

Heritage Input

GJM Heritage provided extensive heritage input based on comprehensive analysis comprising:

- The heritage grading of each property within the Heritage Overlays;
- The currency of existing Statements of Significance;
- Confirmation of places with Victorian Heritage Register nomination; and
- Recommended built form parameters to appropriately manage development within the heritage context.

Refer to Victoria Parade Heritage Analysis & Recommendations (GJM Heritage) for details.

Housing Strategy

With reference to the adopted Housing Strategy for the Municipality (adopted 2018), the Victoria Parade study area is mostly located within the Brunswick & Smith Street Major Activity Centre (MAC), west of Wellington Street. The study area is designated for moderate change, given its mixed lot sizes, proximity to activity centres with heritage significance and its excellent access to services, open space and public transport.

The Housing Strategy identifies future development to be in the form of mixed use, infill and shop-top apartment development on individual and consolidated lots that respond to existing heritage character of streetscapes.

Precinct Character

Key characteristics that distinguish the Victoria Parade Precinct are attributed to a grand boulevard presentation of the streetscape comprising a broad central median and established street trees create a strong, unifying public realm condition. Diversity in built form is attributed to a subdivision pattern that significantly varies west and east of Wellington Street, with rows of intact heritage fabric and a residential hinterland more common to the west, with mixed land use patterns and built form typologies and a commercial hinterland to the east.

Existing built form is generally low scale in street edge and overall height, with some more contemporary office buildings presenting higher at the street walls where the land falls away towards east beyond Wellington Street.

New development should seek to respond to the unique contextual characteristics and respond to unique sensitivities as required.

Street Proportions

Default preferred maximum building heights have been derived in relation to the adjoining street width. This has been based on considerable analysis and documentation of the existing relationships throughout the broader study area, which has shown there to be a strong correlation between the width, function and character of the street to the height and profile of the buildings which line it.

This study also recognises that street width relationship to the ovarall building height also has a strong correlation with the street's function and streetscape character.

However, in order to respond to the prevailing streetwall scale, set backs to upper levels are required. They are also determined by the size and depth of lots, noting need for rear boundary transition conditions.

In the context of Victoria Parade, future development will continue to respond to the street-based built form outcome, by adopting a street wall scale and upper levels setbacks influenced by retaining solar access to the public realm, a pedestrian scale and the influence of heritage fabric. They are also determined by the size and depth of lots, noting the need for rear boundary transition conditions west of Smith Street.

It acknowledges that the street width to building height ratio is not seen as a 'target'. Rather this consideration must also be complemented by the ability for future development to respond to its streetscape character and heritage setting

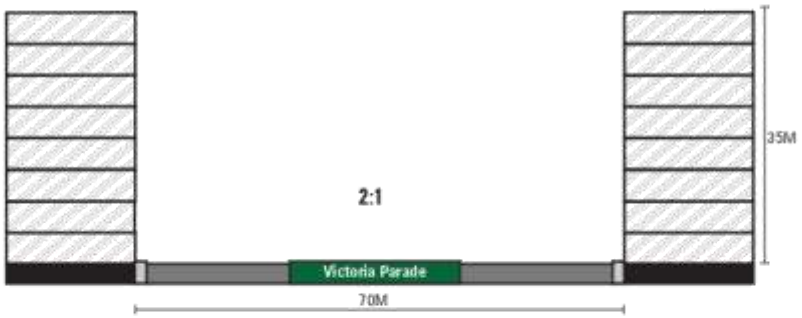
Parade Presence

Victoria Parade (70-75m) is distinctively characterised by its broad profile with a wide central median planting to incorporating avenue tree planting and a tram corridor in the central median.

Therefore, as a starting point, the preferred overall building height of new forms along these open streets will seek to balance the opportunity presented by the generous road proportion with retaining the sense of openness and relative consistency in the street edge conditions.

Importantly, it is also critical that future development continue to respond to its broader streescape character and heritage setting. The following is recommended:

- Up to 2:1 – Street width to overall building height ratio (main road corridors at key junction locations, large size lots).



A street width to building height ratio 2:1 for parade and transport corridor

Solar Access to the Public Realm

In inner urban areas such as Fitzroy and Collingwood, solar access to the public realm is an important consideration. Therefore, future urban form should protect solar access to key streets and open spaces appropriately to ensure 'life and attraction' at the street level for residents and visitors.

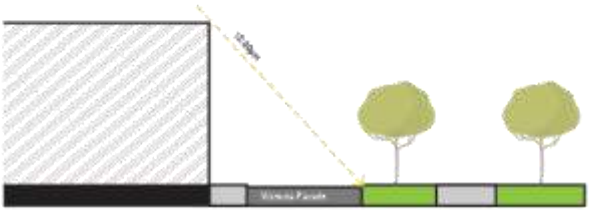
The Urban Design Guidelines for Victoria contains the following relevant Objectives and Guidelines:

'Objective 5.1.3 To ensure buildings in activity centres provide equitable access to daylight and sunlight', and

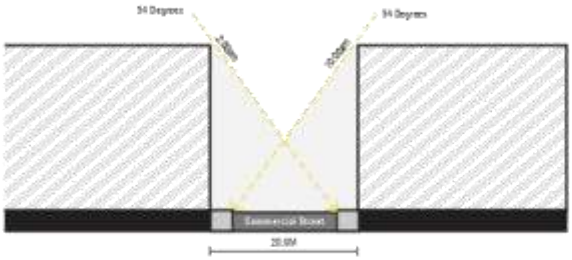
'5.1.3a Locate and arrange the building to allow daylight and winter sun access to key public spaces and key established street spaces.'

Within the Victoria Parade Precinct we recommend the following solar access measures to maintain appropriate solar access to the public realm, measured on 22 September (equinox):

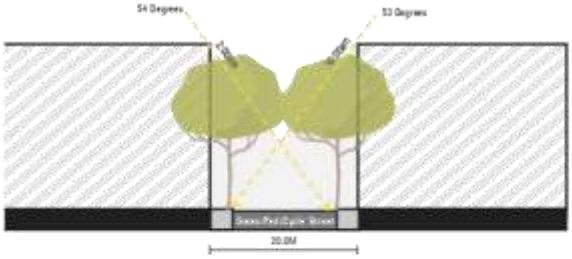
- Along **Victoria Parade** (Boulevard), avoid overshadowing of the northern edge of the central median at 12pm. This will ensure the viability of median vegetation in refinorcing the image of the boulevard and provide solar access to pedestrian nodes including tram stops, and footpaths.
- Along **Commercial Streets** (Smith Street): avoid additional overshadowing of the opposite western footpath from 10am; and the opposite eastern footpath at 2pm. Kerb-outstands at intersections should also be protected.
- Along **Green Streets** (George, Gore and Napier Streets) and **Key Pedestrian Priority/ Cycle Links** (Wellington Street): avoid additional overshadowing of the opposite western footpath from 10am; and the opposite eastern footpath at 2pm. Kerb-outstands at intersections should also be protected.
- Along **Other Streets within the Study Area** (Cambridge Street): avoid overshadowing of the opposite western footpath at 10am; and the opposite eastern footpath at 2pm.
- Along **Narrow Streets within the Study Area** (Rokeby, Rupert, Cromwell and Islington Streets) avoid additional overshadowing above the ground floor of buildings. On narrower streets, some overshadowing of footpaths is inevitable. It is determined that protection of solar access to first floor is acceptable in these locations.
- **Other streets (outside the study area):** avoid overshadowing of footpaths to opposite sides of the street between 10am to 2pm.



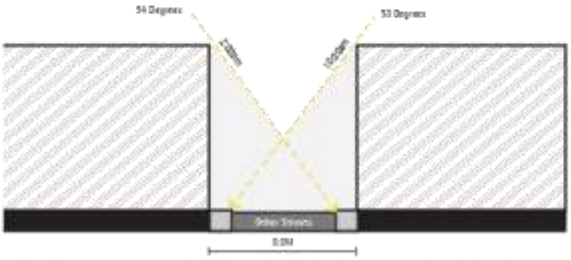
12pm equinox solar angle along Victoria Parade



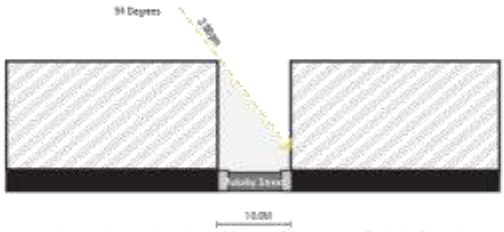
Equinox solar angles along 20m wide Commercial Streets



Equinox solar angles along Green Streets & Pedestrian Priority/Cycle Links



Equinox solar angles along 20m wide 'Other Streets' (eg. Cambridge Street)



2pm equinox solar angles along Narrow Streets (eg. Rokeby Street)

Local landmarks

A total of four local landmarks are identified in the Study Area, occupying corner sites. Prominent corner buildings are a heritage feature and a key characteristic of Fitzroy and Collingwood. Retaining views to and 'space' behind these prominent corner forms is important to ensure they remain visually prominent and 'hold' the corner. The following are identified as local landmarks in the study area:

- Baden Powell Hotel at 61-65 Victoria Parade, Collingwood (HO336);
- former John Franklin Hotel at 75-77 Victoria Parade, Collingwood (HO336);
- Prince Patrick Hotel and shops, 135-141 Victoria Parade Collingwood (HO138); and
- former Ebenzer Baptist Church at 139 Victoria Parade (HO139).

Baden Powell Hotel

former John Franklin Hotel

Heritage Street Walls and Upper Levels

Within the Victoria Parade study area, there is extensive heritage fabric which is to be retained and enhanced. The recommended upper level setback parameters for contributory or individually significant sites draw on the objectives and provisions of Clause 22.02, 22.10, Clause 22.14 and DDO2 (Main Roads & Boulevards) as well as hertiage advice from GJM Heritage.

A **default 6m measurement** (to the new built form and balcony line) is applied to all sites fronting Commercial Streets including Victoria Parade, Smith Street and Wellington Street. This is to ensure adequate protection of the primary heritage 'volume' and features (including chimneys, and exposed roof forms). The default upper level setback will also protect facade articulation in the streetscape elevation with spatial separation between the street wall frontage and recessive upper levels (behind).

Where opportunity for taller development exists behind the heritage volume, a default upper level setback of 6m will be required in addition to consideration of a sensitive architectural design treatment (massing, form and materiality) to ensure the new form does not visually compete with the heritage element.

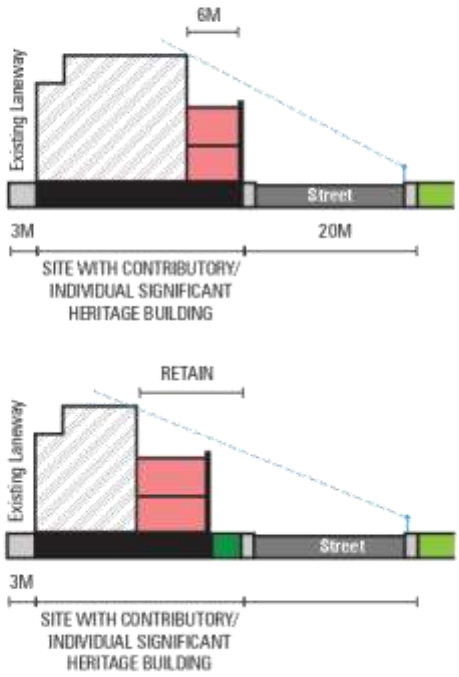
Heritage frontage

Based on an understanding of heritage advice including the distinct built form character to the west of Wellington Street, the following parameters guide the preferred built form response for heritage frontages in the study area:

- Heritage forms (both VHR and Non-VHR) should retain existing heritage frontages, including front setbacks. This is particularly relevant to Victoria Parade where existing heritage forms are setback from the street frontage for front gardens and terraces.
- Retention of all built fabric within sites with VHR designation (169-179 and 203 Victoria Parade). It also precludes new built form within the 'air right' above VHR buildings.
- If the extent of heritage fabric of a VHR site were to change or diminish a 'default' 4 storey maximum would apply to the site, as well as specific heritage guideance.
- Where new buildings are proposed within the side or rear setback of VHR sites, they are to be positioned behind existing structures, ensuring heritage frontages are not concealed by new forms from streetscape views.
- New built form to the rear of individually significant residential heritage forms, including single and two storey terraces should ensure upper levels are highly recessive in views.
- Retain existing heritage frontages, including street setbacks.

New street wall and upper levels

In urban areas, urban design guidelines typically seek to introduce a 'street wall' and 'upper level front setback' measure. The purpose for such a distinction and separation is to maintain the prominence of the 'traditional' frontages within the streetscape, while enabling new and increased heights in a recessive order. Upper level setbacks also retain a sense of openness to the street, which is prominent in a pedestrian's field of vision and reinforces the traditional street wall scale.



Preferred setback above and behind heritage frontage

Contributory/individually significant building
Existing landscape setback
Boulevard median

New street wall heights

Along Victoria Parade, heritage street walls vary in parapet height but in most cases comprise 2 storey terrace buildings. The only exception is the former church building on the eastern Rupert Street corner. To retain an orderly streetscape characteristic, any new street wall should match the adjoining heritage forms. On wider allotments with greater capacity for change, street walls should 'step' down to match adjoining heritage forms, but can accomodate higher street walls after a minimum 6m from the adjoining boundary.

Importantly, new street walls should not diminish the heritage qualities of the streetscape. Where a site is adjacent to a single storey heritage form, a street wall transition is considered appropriate in ensuring the traditional form is not overwhelmed by new development.

The following is recommended for Victoria Parade:

- A 'default' **street wall height of 3 storeys (11.2m)** is recommended for non-contributory sites in response to prevailing low rise forms (2-3 storeys) in residential zones unlikely to change significantly in the long terms such as George and Gore Streets. Along Rokeby, Rupert and Islington Streets, new street walls should reference the prevailing street wall heights of recent infill development at 3 storeys (11.2m).
- At the major junction of Smith Street and Victoria Parade a taller street wall height of 4 storeys (14.4m) is considered appropriate in demarcating a notable junction in the precinct, where future developments will contribute to wayfinding. However, to sensitively respond to abutting heritage properties a transition down to 3 storeys (11.2m) is recommended.
- For large sites to the east of Wellington Street which have capacity for change a more robust street wall height of 4 storeys (14.4m) is considered appropriate.
- On allotments with corners to narrow side streets (10m) it is expected that high street walls will step down before wrapping the corner where low-scale heritage street walls exist opposite.

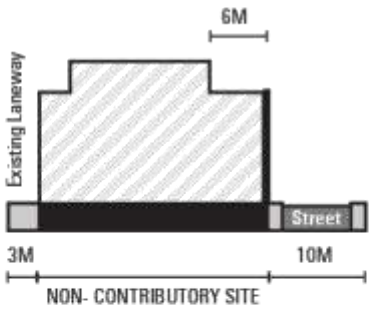
Upper level setbacks for non-contributory sites

The purpose of the upper level setback is to:

- Retain prominence of local landmarks.
- Provide a clear distinction between 'base' and 'top'.
- Create a degree of consistency for upper levels that comprises a mix of heritage and non-heritage forms.
- Ensure the new upper level does not visually overwhelm the streetscapes.
- Ensure no unreasonable overshadowing of the public realm (taller buildings may require upper level setback greater than 6m to meet the overshadowing requirement).

For these reason, **a 'default' 6m upper level setback** (from the facade to the new built form including balcony line) is applied to all non-contributory sites fronting:

- The northern side of **Victoria Parade** preserving a distinction between street wall and upper levels and minimising overshadowing of the central median;
- **Smith Street** for a visually dominant street wall and to achieve a degree of consistency with development on heritage sites;
- **Wellington Street** for a visually dominant street wall;
- **Napier, Gore and George Street** (Green Streets) to meet the overshadowing requirements and transition to residential precincts to the south of the study area.
- **Rokeby, Rupert, Cromwell and Islington Streets** for a visually dominant street wall.

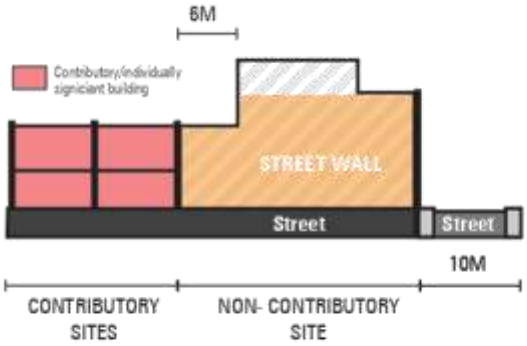


Preferred upper level setback above new street wall

Street Corners

The streetwall presentation along local streets needs to 'turn the corner' and transition appropriately. Fitzroy and Collingwood's local street network comprises both 20m and 10m wide streets with a high frequency of corner sites. In some instances, corner sites have direct abuttals to contributory heritage sites which are typically defined by 1-2 storey heritage street walls, or heritage frontage. A sensitive street wall transition is sought at these corner locations.

New development should return the taller street wall around the corner and into the perpendicular street and transition to respond to the abutting heritage parapet for a length of approximately 6m or to the nearest property boundary (if less than 6m).



Preferred street wall transition for corner sites

Upper Level Expression

The design of upper levels of new development should:

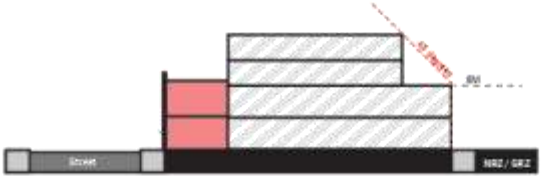
- Be well articulated and break up the building mass;
- Distinguish between the lower and upper levels through materials and articulation;
- Be designed so that side walls are articulated and read as part of the overall building design and not detract from the streetscape when viewed from direct and oblique views along the streetscape; and
- Provide passive surveillance of adjacent streets and public open space.
- Minimise visual bulk on large corner sites where taller urban form is anticipated.
- On large sites, new forms should be designed as a collection of parts to avoid the presentation of continuous and unbroken building mass.
- On forms greater than 10 storeys, the upper levels should be further set back in order to be visually recessive.

Transition

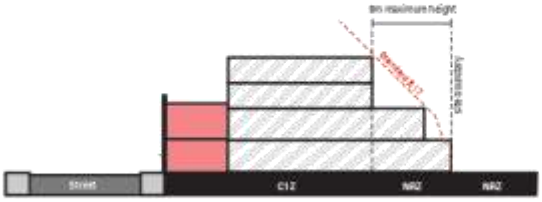
Gradual transitions in scale are an existing characteristic of the broader Fitzroy and Collingwood area. There are many examples of older commercial or warehouse forms side by side with fine grained dwellings. In this context a change in streetwall height of one storey is common within the streetscapes of the precinct.

The broader skyline is primarily dominated by mid-rise and high-rise forms on the southern side of the boulevard (City of Melbourne) and mid-rise forms associated with institutional and education facilities further east. There is limited evidence of recent construction along the northern side of Victoria Parade within the precinct, however across the road are recent constructions upwards of 14 storeys with street walls of 4-6 storeys.

Larger sites may be able to accommodate for gradual transitions through recessive upper levels and transition in scale in response to abutting heritage forms. In order to avoid undesirable 'wedding cake' forms, minimal 'steps' in built form massing is encouraged. Transitions in scale should, as a minimum, occur in paired levels.



Preferred built form transition to residential zone land (GRZ/NRZ)



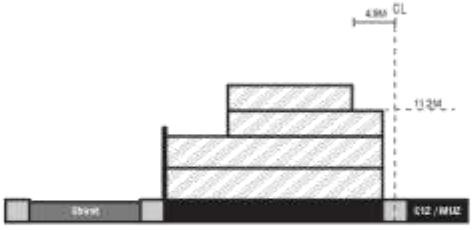
Preferred built form transition where NRZ is applied to rear of site

Contributory/individually significant building

Residential Interfaces (including laneway)

Most residential properties are generally located predominantly to the west of Smith Street to the rear of the precinct boundary, usually separated by a laneway, or street. There are limited instances where the study area has a direct abuttal to residential properties, which generally occurs where a side boundary within the study area abuts the rear boundary of an allotment in a perpendicular street (i.e. between Napier and George Streets). There are limited direct abuttals to private open spaces.

Along these residential interfaces (with, or without laneway separation), an 8m (2 storeys) form built to the boundary is required with a recessive upper-level setback (behind a 45-degree setback envelope) to ensure residential amenity is protected.



Preferred built form transition to MUZ or C1Z sites

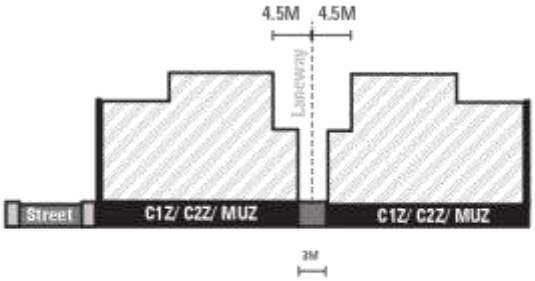
Non-Residential Interfaces (including laneway)

Built form should continue to respond to laneway interfaces with C1Z and C2Z land. Within the study area the existing laneways, their function, widths and arrangements vary. Future development should respond to these mixed conditions. Where new development is separated from adjoining non-residential sites by a laneway (typically 3m wide), it should present a maximum 11.2m (3 storeys) form at the interface, with any built form above set back 4.5m from the centreline of the laneway. This ensures a minimum distance of 9m is provided between adjoining sites to facilitate equitable development achieving adequate separation between dwellings.

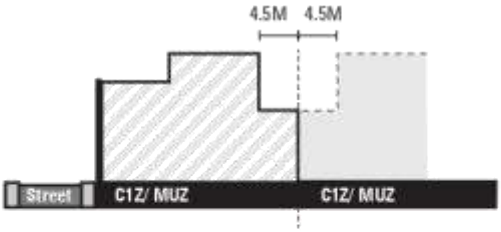
Building Separation, Amenity & Equitable Development

New development should provide a design response that considers the existing condition and future development opportunities of adjacent properties in terms of outlook, daylight and solar access to windows. Development should be setback from common boundaries to provide separation between buildings at the upper levels (above the street wall):

- A minimum of 4.5m from the boundary where a habitable room window is proposed;
- A minimum of 3m from the boundary where a non-habitable room window or commercial window is proposed; and
- A minimum for 4.5m from the edge of a proposed balcony or terrace.
- Where the common side boundary is a laneway, the setback is measured from the centre of the laneway
- Where the common side boundary is a laneway, the setback is measured from the centre of the laneway.



Preferred 4.5m setback of upper levels from centreline of laneway (minimum 3m wide)



Preferred 4.5m setback of upper levels from common boundary

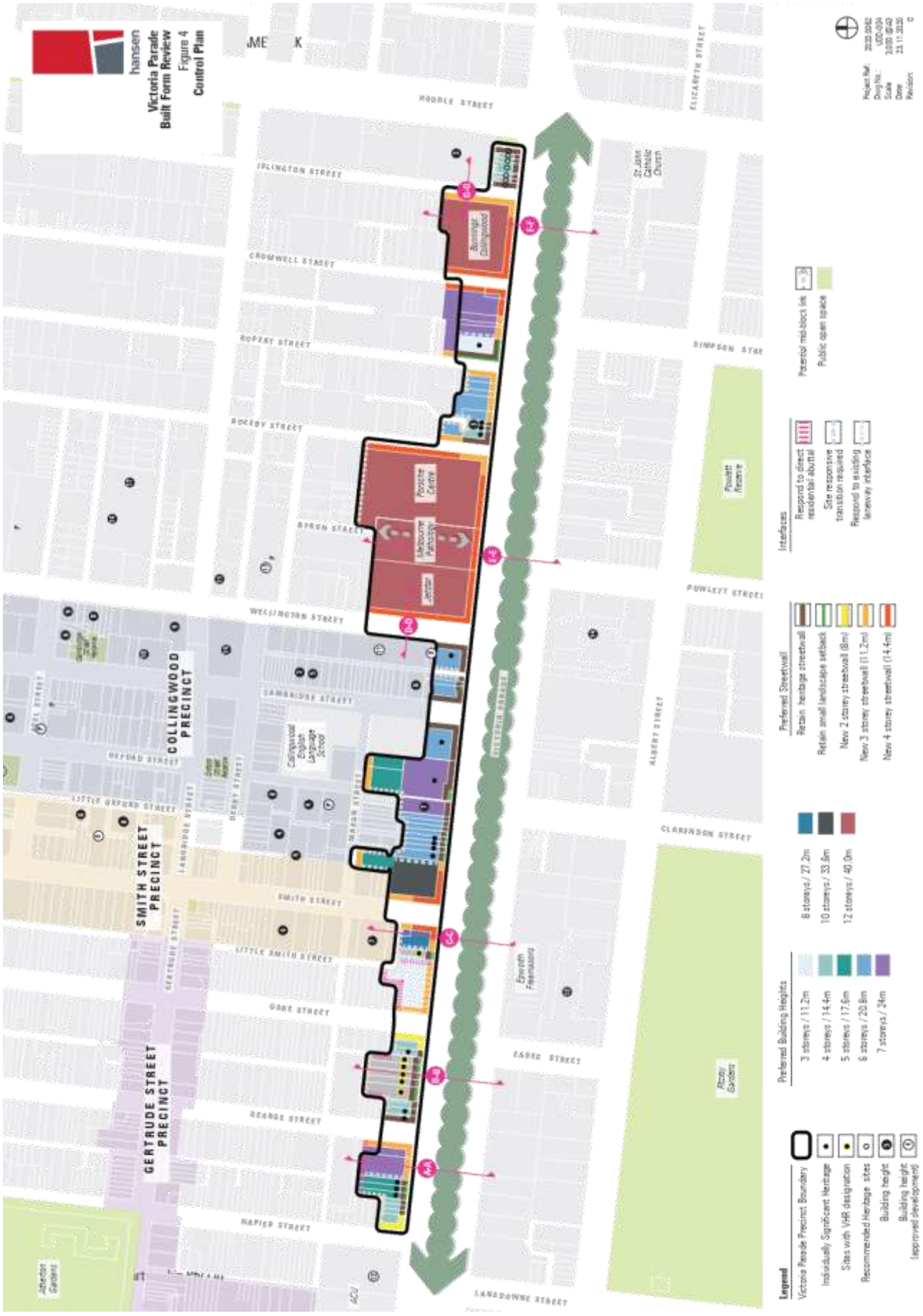
Sites in Residential Zone

Built form recommendations for sites in residential zones have adopted the mandatory maximum permissible height allowed by the zone. No key views to the local landmarks are affected by this built form parameter.

Future Shared Street

On large sites to the east of Wellington Street there is potential to create new shared street/s, in order to provide a more permeable pedestrain network and create stronger connections to the existing streets and laneways. In order to ensure an inviting and safe environment development abutting any future shared street, must maximise opportunities to provide for passive surveillance of the public realm and seek to appropriately address and activate the edges.

Attachment 2 - Attachment 2 - Victoria Parade Built Form Framework



PART 4: RECOMMENDED CONTROLS

4.1 Methodology

The formulation of future building heights and streetwall conditions within the Victoria Parade Precinct has been influenced by many factors, including:

- Planning Policy Framework;
- Local Planning Policy Framework, including Zones and Overlays;
- Practice Note No. 60 – Height and Setback Controls for Activity Centre;
- Practice Note No. 59 – The Role of Mandatory Provisions in Planning Schemes;
- City of Yarra Housing Strategy (Adopted 4 September 2018);
- Review & Development of the City of Yarra Landmarks Policy (March 2018);
- Urban Design Guidelines for Victoria, 2017;
- Anticipated scale and form of development outside the study area (i.e. within Residential and Employment Zones);
- Views to existing municipal and local landmarks from the public realm;
- Recognition of Yarra's heritage skyline;
- Recent development approvals (including those currently under-construction);
- 3D computer modelling of built form testing for the study area;
- Independent heritage advice and existing character considerations, consistent with the expert heritage advice provided by Council's heritage advisors (GJM Heritage);
- The overall Brunswick Street and Smith Street Built Form Review Background Report (November, 2019); and
- Extensive site inspections and workshops with Council's officers.
- Planning Panel Recommendations for:
  - Johnston Street Local Area Plan (C220);
  - Queens Parade Built Form Review (C223);
  - Swan Street Built Form Review (C191).

4.2 Assumptions

Formula for Deriving Numerical Building Heights

The maximum building heights has been calculated to a higher (than minimum) floor to floor heights in order to:

- Respond to the typical heights found within heritage buildings (between 8-11.2m);
- Accommodate for greater than minimum standards and provide flexibility for future uses;
- Allowance for other design elements to be accommodated, such as parapets, railings, etc.

The following numerical floor to floor dimensions were employed:

- Ground Floor and First Floor: 4m
- Second floor and above: 3.2m

Note: Higher numerical floor levels for mixed use development may be required at upper levels.

Formula for Deriving Numerical Streetwall Heights

The maximum streetwall heights have been calculated based on the above floor to floor heights, plus additional height to allow for parapets, balustrades and minor architectural features.

Zero front setback

New buildings within Activity Centres and inner urban areas such as Victoria Parade Precinct should generally be built to the street frontage in order to:

- Respond to the prevailing built form character of the area;
- Provide a clear definition at the street edge; and
- Maximise the developable area.

With the exception of retaining existing front setbacks, all new street walls within the commercial and mixed use zone should be built to boundary.

Top Floor Depth

A minimum depth of approximately 10m for the upper most level has been considered in determining overall building heights. This minimum dimension is based on a typical apartment depth, and provision of efficient access.

4.3 Precincts

Based on the linear extent of Victoria Parade and the distinction in future built form character along the corridor and to perpendicular side Streets as determined by the Built Form Framework Plan the study area is divided into several precincts including:

- Victoria Parade West (West of Smith Street);
- Victoria Parade Central (Between Smith and Wellington Street)
- Victoria Parade East (East of Wellington Street);

PRECINCTS	STREET WALLS / GROUND LEVEL SETBACKS	PREFERRED MAXIMUM BUILDING HEIGHTS
VICTORIA PARADE EAST (EAST OF SMITH STREET)	• Retain existing frontage setback. • Match adjoining heritage eaves/ parapet, or lower. • Preserve existing buildings on VHR sites. • Retain heritage frontage (and garden setback). • 3 storeys (11.2m) to 4 storeys (14.4m) • Minimum upper level setback 6m • 17m upper level setback above VHR terraces between 169-179 Victoria Parade.	11.2m (3 storeys) to 24m (7 storeys)
VICTORIA PARADE CENTRAL (BETWEEN SMITH & WELLINGTON STREET)	• Retain existing frontage setback. • Match adjoining heritage eaves/ parapet, or lower. • Preserve existing buildings on VHR sites. • Retain heritage frontage (and garden setback). • 3 storeys (11.2m) to 4 storeys (14.4m). • Minimum upper level setback 6m.	11.2m (3 storeys) to 33.6m (10 storeys)
VICTORIA PARADE WEST (WEST OF WELLINGTON STREET)	• Retain existing frontage setback. • Match adjoining heritage eaves/parapet, or lower; or • 3 storeys (11.2m) to 4 storeys (14.4m). • Minimum upper level setback 6m.	11.2m (3 storeys) to 40.0m (12 storeys)

The following diagram illustrates a breakdown of these precinct boundaries (overleaf).

Attachment 2 - Attachment 2 - Victoria Parade Built Form Framework

PRECINCT 1: VICTORIA PARADE WEST

This precinct comprises lots with a primary frontage to Victoria Parade (north side of the street) between Napier Streeet and the western boundary of the corner allotment at the Smith Street intersection (207-209 Victoria Parade).

Preferred precinct character statement

There is generally low to moderate change expected to occur across Precinct 1 due to the configuration of narrow allotments, presence of heritage fabric including VHR sitses, interface with residential areas to the north as well as the General Residential Zone covering allotments (east of Gore Street) permitting a maximum 3 storeys. An anomalous site at the western corner of George Street where there is greater capacity for change which is responsive to both adjoining residential and heritage fabric.

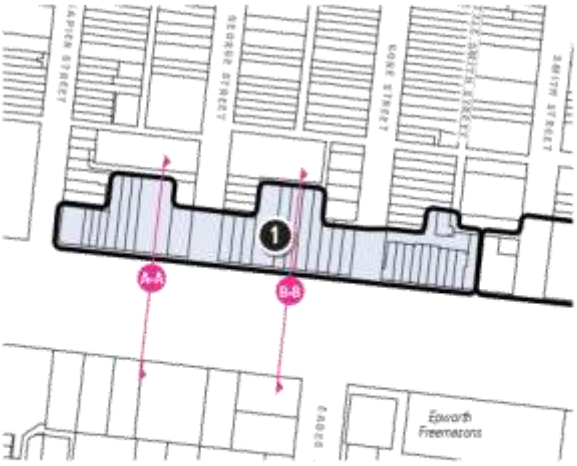
Infill development opportunities within the precinct will be recessive, adopting a 'street wall and setback' model to retain the prominence and consistency of the heritage parapet when viewed from within the street corridor. New upper levels will turn the corner to the broad 'green' street frontages and transition to residential interfaces at the rear. Development on larger allotments will adopt new 3 storey street walls, reinforcing the low and orderly street wall characteristics of this precinct.

Built Form Objectives

In addition to objectives found in City of Yarra DDO2:

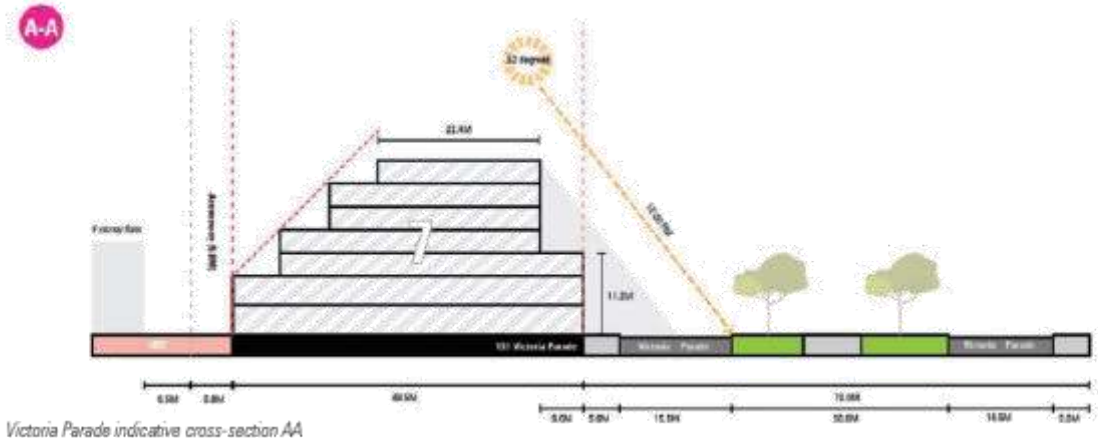
- To enhance the role of the boulevard by protecting it sense of openness.
- To protect existing built form fabric with VHR designation.
- To retain heritage frontages.
- To realise a moderate change that respects the heritage and the streetscape character.
- To enhance a consistent and orderly streetscape presentation to this side of Victoria Parade.
- To ensure the heritage frontage remains the visually dominant element along this section of Victoria Parade with new development is visually recessive and does not dominate the streetscape.
- To minimise overshadowing impact on footpaths and the public realm.
- To ensure a suitable transition along its residential interface.

139 Victoria Parade

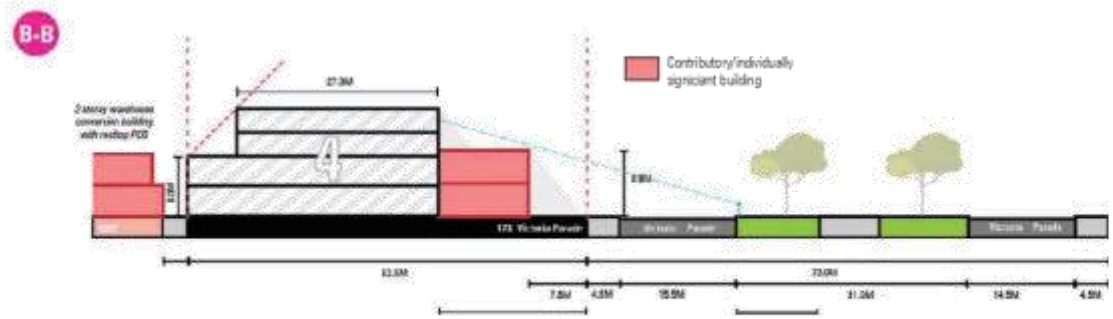


Guidelines

1. Ensure new infill street walls match the parapet height of adjoining heritage forms.
2. Encourage retention and repurposing of existing built form on VHR sites.
3. Retain existing front setbacks of contributory buildings, including front gardens.
4. Ensure new development on corner sites is designed in the round and 'turns the corner' to address all street frontages.
5. Ensure new development maintains solar access at the Spring Equinox (September 22) to:
   - The northern edge of the **Victoria Parade** central median at 12pm.
   - The western footpaths of **streets** (3m from property boundary) at 10am; and the opposite eastern footpaths (3m from property boundary) at 2pm.
6. Ensure new development reinforces domestic character of residential streets through facade articulation and material treatment.
7. Facilitate equitable development outcomes to adjacent sites through adequate building separation to side or rear boundaries.
8. Ensure new development at residential edges avoids the presentation of overly stepped or 'wedding-cake' profile.



Victoria Parade indicative cross-section AA



Victoria Parade indicative cross-section BB

PRECINCT 2: VICTORIA PARADE CENTRAL

This precinct comprises lots with a primary frontage to Victoria Parade (north side of the street) between western side of Smith Street and Wellington Street, within the C1Z and MUZ Zones.

Preferred precinct character statement

Victoria Parade Central will continue to be defined by a varied streetscape condition, comprising rows of 2-storey heritage terraces punctuated by large non-contributory sites at the Smith Street MAC entrance. At this junction, acknowledge development opportunities on larger allotments that will manifest with rising forms set back behind the prevailing street wall profile rising at the MAC entrance.

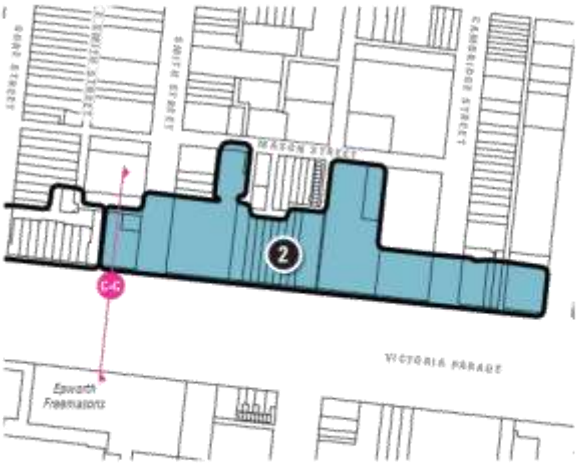
New moderate infill with be recessive in profile, befitting a 'street wall and setback' model with transition to residential surrounds with a more robust response to adjoining commercial interfaces. To either side of the main street junctions, reinforce the consistent and orderly street wall character.

Built Form Objectives

In addition to objectives found in City of Yarra DDO2:

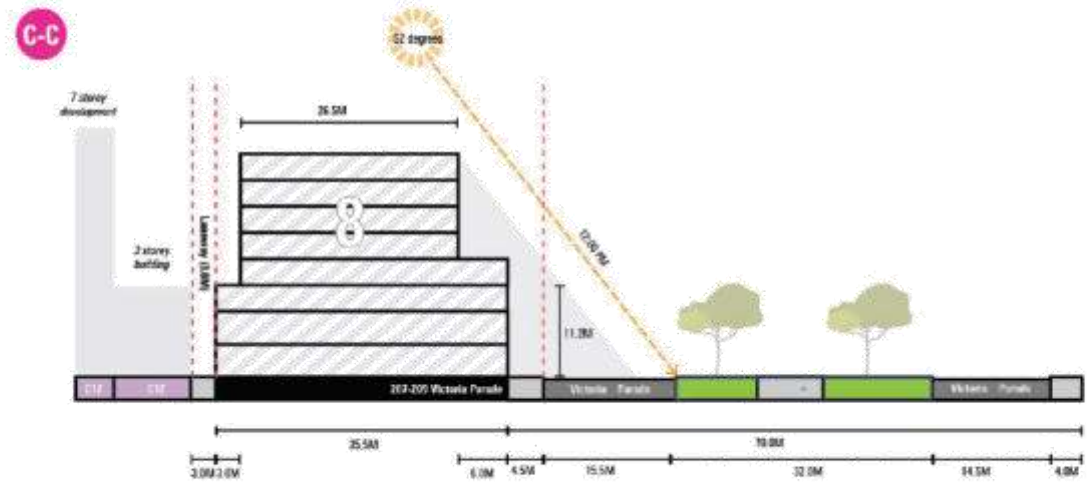
- To enhance the role of the boulevard by protecting it sense of openness.
- To realise moderate change that respects the heritage and streetscape values of the precinct.
- To retain heritage frontages.
- To retain visual prominence of local landmarks.
- To carefully demarcate the southern entrance into the Smith Street MAC.
- To ensure the heritage frontage remains the visually dominant element of built form east of Smith Street and that new development is visually recessive and does not dominate the streetscape.
- To support development that contributes to an active, high quality and pedestrian-friendly environment.
- To minimise overshadowing impact on footpaths and the public realm.

Corner Victoria Parade and Smith Street



Guidelines

1. Ensure new infill street walls matches the parapet height of adjoining heritage forms.
2. Ensure new development provides site responsive transition to adjoining VHR and heritage buildings.
3. Retain the visual prominence of local landmarks (Baden Powell Hotel at 61-65 Victoria Parade and the former John Franklin Hotel 75-77 Victoria Parade).
4. Ensure that new development on corner sites address multiple street frontages by 'turning' the corner.
5. Ensure new development complements precinct heritage features (grain and rhythm).
6. Ensure new development maintains solar access at the Spring Equinox (September 22) to:
   - The northern edge of the **Victoria Parade** central median at 12pm.
   - The eastern and western footpaths of **Smith Street** (3m from property boundary) between 10am and 2pm.
   - The eastern footpath of **Wellington Street** (3m from property boundary) at 2pm.
   - The eastern and western footpaths of **Cambridge Street** (3m from property boundary) between 10am and 2pm.
7. Encourage continuation of awnings over footpaths in commercial settings.
8. Ensure new development at residential edges avoids the presentation of overly stepped or 'wedding-cake' profile.



Victoria Parade indicative cross-section CC

PRECINCT 3: VICTORIA PARADE EAST

This precinct comprises lots with a primary frontage to Victoria Parade (north side) between Wellington Street and Hoddle Street, forming the eastern boundary of the precinct, within C1Z and a small portion of C2Z to the rear.

Preferred precinct character statement

There is a moderate to high level of change expected for Victoria Parade East. Development on large sites unaffected by Heritage Overlay will defined by a pedestrian scaled, consistent street wall condition along Victoria Parade with an increased building height regime recessed behind. Despite lack of Heritage Overlay on these urban blocks, the redevelopment of the precinct will be responsive to the existing and emerging urban morphology of the adjoining and broader setting.

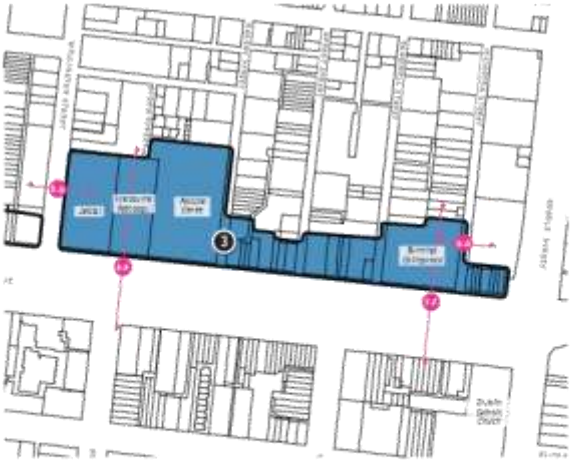
On urban blocks comprising finer grain allotments with heritage attributes, a more orderly and consistent street wall condition will be reinforced.

Built Form Objectives

In addition to objectives found in City of Yarra DDO2:

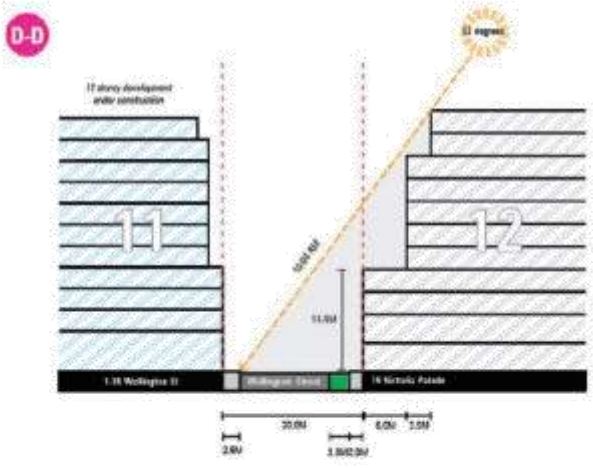
- To enhance the role of the boulevard by protecting it sense of openness.
- To realise moderate to high change that respects the heritage and streetscape value of the precinct and surrounds.
- To retain visual prominence of local landmarks.
- To retain heritage frontages.
- To support the permeability of pedestrian access and visual breaks of large urban blocks in the precinct.
- To minimise overshadowing impact on footpaths and the public realm.

Corner Victoria Parade and Wellington Street

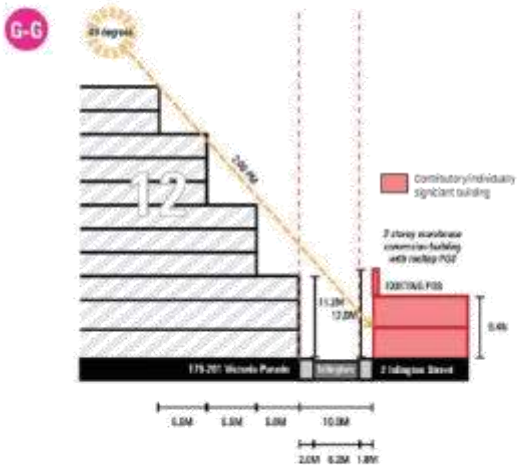


Guidelines

1. Establish a clear distinction between a lower to moderate street wall and rising form behind.
2. Ensure new development on large sites adopt a robust street wall condition to the boulevard that steps down toward corners to respect scale of side streetscapes.
3. Ensure new infill street walls matches the parapet height of adjoining heritage forms.
4. Retain the visual prominence of local landmarks (former Prince Patrick Hotel and shops at 135-141 Victoria Parade and former Ebenezer Baptist Church at 139 Victoria Parade).
5. Ensure that new development on corner sites address multiple street frontages by 'turning' the corner.
6. Encourage development that is made up of parts on large sites.
7. Ensure new development complements precinct heritage features (grain and rhythm).
8. Ensure new development maintains solar access at the Spring Equinox (September 22) to:
   - The northern edge of the **Victoria Parade** central median at 12pm.
   - The western footpath of **Wellington Street** (3m from property boundary) at 10am.
   - Along **Rokeby, Rupert, Cromwell and Islington Streets** to the first floor above ground level between 10am and 2pm.
9. Encourage laneway extension or widening to accommodate servicing, parking access and increased pedestrian permeability through large non-contributory sites.
10. Ensure new development at residential edges avoids the presentation of overly stepped or 'wedding-cake' profile.

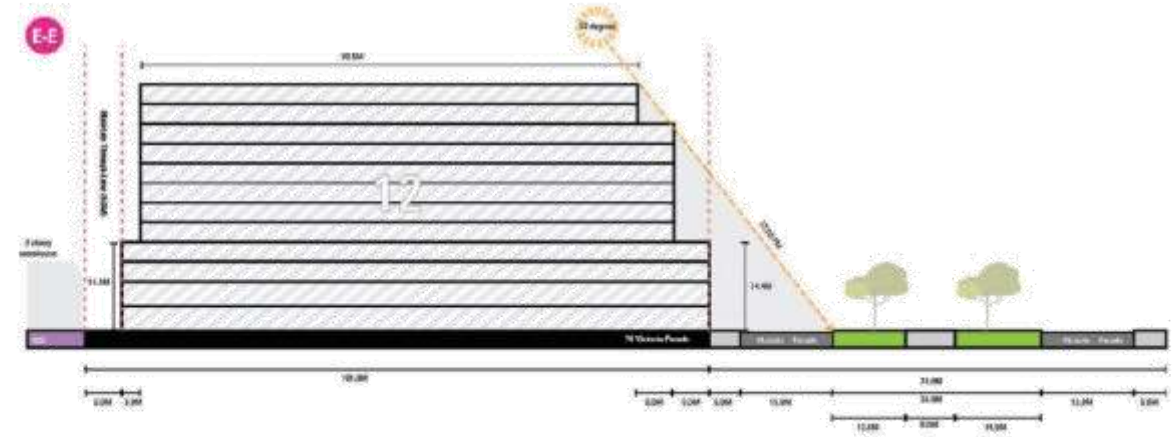


Victoria Parade indicative cross-section DD

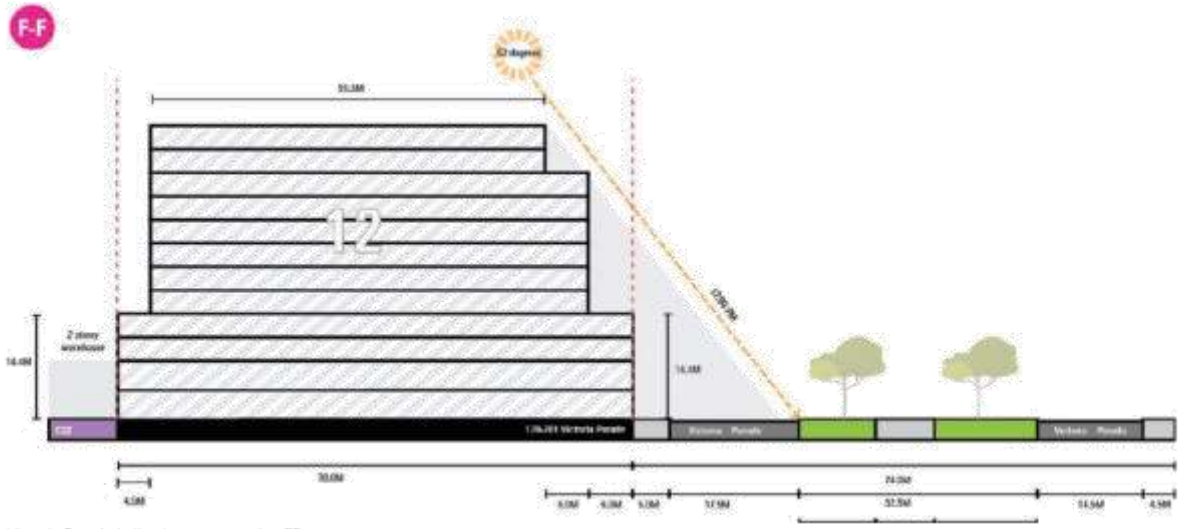


Victoria Parade indicative cross-section GG

Attachment 2 - Attachment 2 - Victoria Parade Built Form Framework



Victoria Parade indicative cross-section EE



Victoria Parade indicative cross-section FF

4.4 General Built Form Guidelines

Built Form Recommendations

A range of specific built form recommendations and design guidelines have been developed for all precincts.

These built form guidelines focus on the Victoria Parade Precinct, where future development is anticipated and design guidance is required.

Public Open Space provision

Public open space is an important element within urban areas, as is its spatial provision. There are presently no 'pocket parks' within the study area. Therefore, there is a clear lack of open space provision within this precinct. In inner urban areas such as Victoria Parade the provision of footpaths and 'pause points' at kerb outstands are important to the social health and well-being of a local community. It highlights the importance of maintaining sunlight to footpaths and kerb outstands.

Visually distinct additions and upper levels

Given the presence of heritage fabric along parts of Victoria Parade, new buildings or additions should be designed to have a visually distinctive architectural expression from the heritage element. This is in order to ensure that new form can be clearly 'read' and understood as a more recent component. It also encourages contemporary architectural responses which will contribute to the 'richness' and diversity of built form.

Lightweight materials, colours and finishes that contrast with the prevailing masonry forms are also encouraged to assist in the clear distinction between new and old, while also assist in visually recessing new forms.

Architectural Considerations

To street frontages, expansive blank walls should be avoided and where visible from within the public realm, any blank walls need to be visually divided into small elements through architectural treatments or artistic decoration to reduce visual mass.

Fenestration patterns and facade solid to void proportions need to reflect the prevailing streetscape rhythm and presentation.

New forms should 'fit' within the prevailing streetscape character. Avoid overly busy and complex architectural expressions.

Services and Vehicle access

Ensure servicing and car parking is provided from secondary side streets or rear laneways.

The consolidation of services into basement levels is highly encouraged to mitigate extent of inactive, blank walls to the public realm.

Equitable Development

Facilitate equitable development outcomes by adopting:

- A minimum of 4.5m from the boundary where a habitable room window is proposed.
- A minimum for 4.5m from the edge of a proposed balcony or terrace.
- A minimum of 3m from the boundary where a non-habitable room window or commercial window is proposed.
- Where the common side boundary is a laneway, the setback is measured from the centre of the laneway.
- ResCode applies to sites in residential zoned land.

Active and Semi-Active Frontages

In Activity Centres and Mixed Use areas, buildings must provide sufficient activation at street level to foster 'life' on the street and provide opportunities to maximise safety via passive surveillance.

Along the key movement corridors active ground frontages are encouraged. This is particularly relevant for Victoria Parade east of Smith Street including its corner allotments, and Smith and Wellington Street.

Along local streets and mixed use areas, semi-active frontages are more appropriate. As these 'less active' frontages still maintain an appropriate level of passive surveillance, while also providing more privacy and seclusion to the inside of the building, befitting the nature of the use being either primarily office or dwelling.

Direct pedestrian entries into ground floor uses is encouraged, particular on larger sites, with broad frontages.

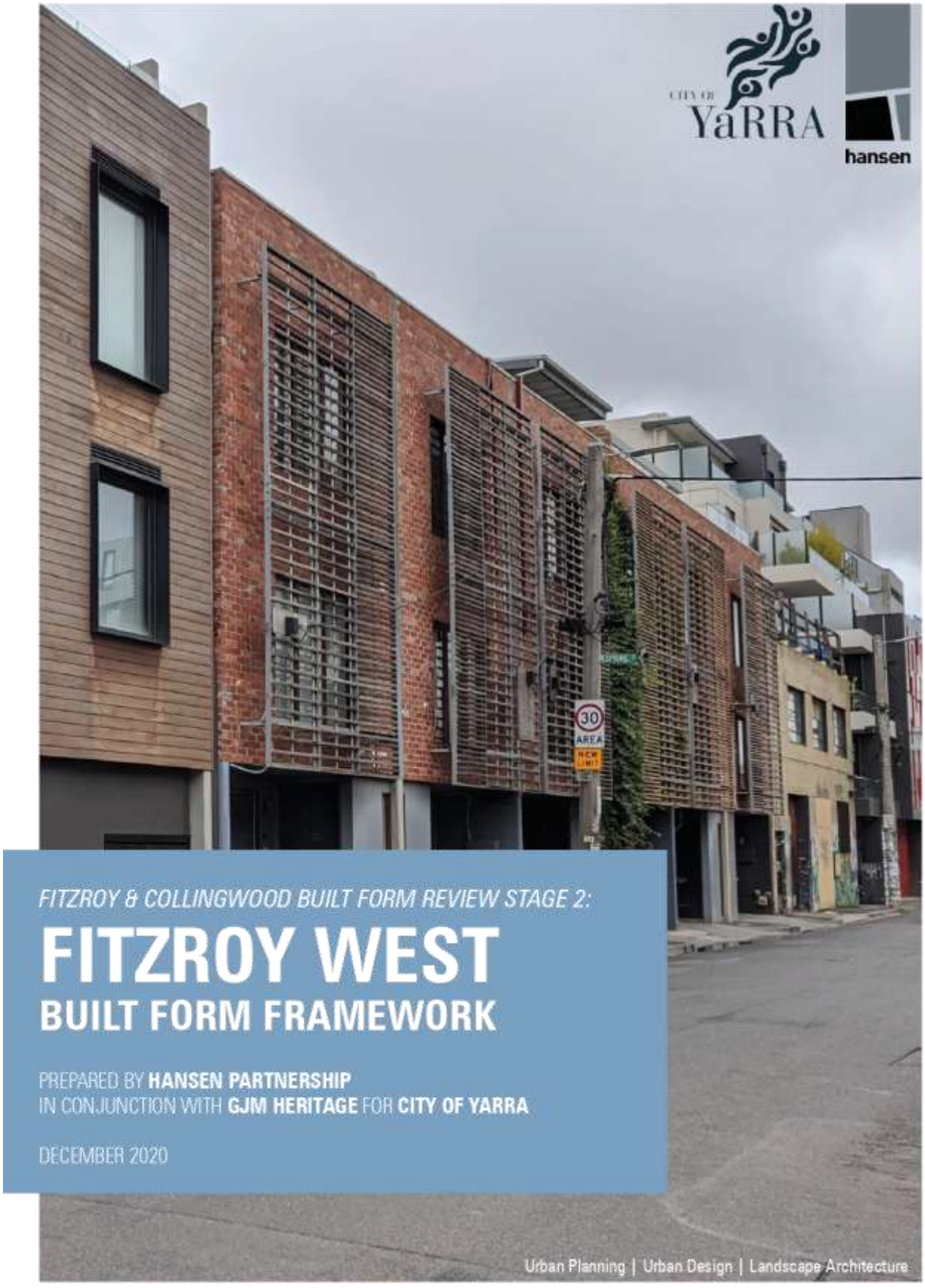
Upper levels also provide 'eyes on the street' and contribute to passive surveillance of the public realm. Windows and balconies that orientate towards the street are encouraged.

Public Open Space provision

Public open space is an important element within urban areas, as is its spatial provision. In inner urban areas such as Collingwood and Fitzroy and the provision of public parks is important to the social health and well-being of a local community.

While there are no current plans for future pocket parks in the precinct, opportunity may exist when large sites are redeveloped, as well as along intersecting green streets where there are presently kerb outstands providing wider footpaths and landscape.

Attachment 3 - Attachment 3 - Fitzroy West Built Form Framework



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Issue Date	December 2020	

** Note: This Draft document is a part of a broader Built Form Review for the Brunswick Street and Smith Street Activity Centres : Built Form Review. It is a component of a broader body of work that sets out a future proposition for two of Yarra's key Activity Centre spines and their adjoining mixed use precincts.*

Preamble

The following urban design report has been prepared for the City of Yarra as the basis for an urban design vision for the Fitzroy West Precinct. It sets out a preferred built form framework underpinned by an integrated urban design and heritage assessment.

The report has been prepared by a multidisciplinary team comprising Hansen Partnership (Urban Design) and GJM Heritage (Heritage) with the support of the City of Yarra's internal working group.

The study area is identified in Figure 1.

This report sets out the rationale for proposed built from controls for Fitzroy West and is underpinned by key components, namely:

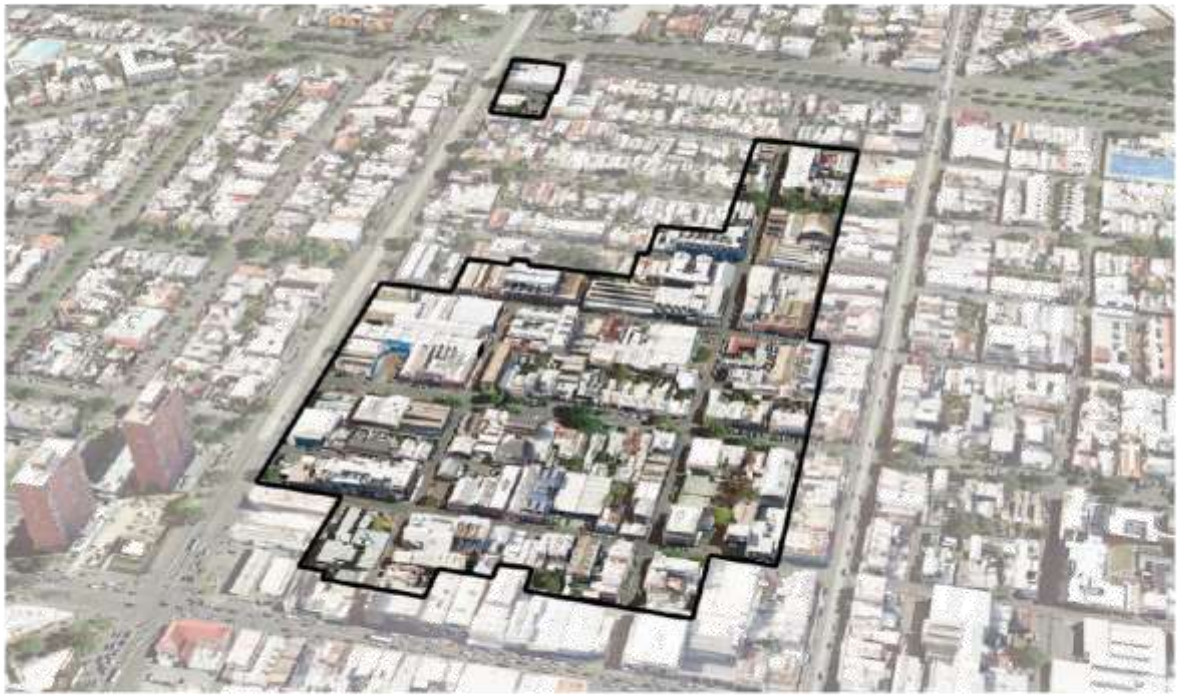
Part 1:Fitzroy West Context

Part 2: Precinct - Influences

Part 3: Built Form Proposition

Part 4: Recommended Controls

The report is part of a broader Built Form Review.



Oblique View of the Fitzroy West Study Area and Surrounding Context

Attachment 3 - Attachment 3 - Fitzroy West Built Form Framework

PART 1: FITZROY WEST CONTEXT

The Brunswick Street and Smith Street Built Form Review is a broader urban design program to set a clear framework for future change within two of Yarra's key Activity Centres and their adjoining Mixed Use areas. Planning policy identifies such Activity Centres as areas for accommodating growth and change. Therefore, these are the areas that must be carefully planned and managed in order to accommodate progressive change while protecting (or indeed enhancing) existing established character and heritage values.

Stage 1 of the project was initiated in May 2017 and encompasses large areas bound by Alexandra Parade (to the north), Victoria Parade (to the south), Wellington Street (to the east) and Nicholson Street (to the west).

Stage 1 of the project comprised the preparation of Built Form Frameworks for Gertrude, Brunswick and Smith Streets in 2019. A Johnston St Precinct and Fitzroy East Precinct reports were completed in June 2019 and a Collingwood Precinct report was prepared in June 2018.

As part of the Stage 1 process, extensive analysis of the existing conditions was undertaken and documented within an overall Background report. This comprehensive analysis identified and divided the overall Review Area into ten 'place- specific' precincts. Furthermore, a series of guiding objectives were identified to be contemplated across ten defined precincts.

This report addresses the **Fitzroy West Precinct** (Figure 1 overleaf), forming part of the Stage 2 Built Form Review. A key consideration in the preparation of a Built Form Framework for Fitzroy West relates to its highly mixed built form character including a mix of heritage forms and emerging apartment developments. Two separate reports were also prepared for Victoria Parade and Alexandra Parade 'Boulevard' Precincts in 2020 (as part of Stage 2).

1.1 Overarching Built Form Objectives

The following 8 objectives have been identified for the Brunswick and Smith Streets Built Form Review (the Study Area):

Objectives:

1. Recognise and carefully manage potential in key areas within the Activity Centres.
2. Highlight the character distinctions between the different retail Streets and mixed use precincts within the Activity Centres.
3. Reinforce the traditional Victorian cityscape of heritage Streetscapes as dominant elements, including significant corner elements and identified local landmarks.
4. Ensure continued diversity through sensitive infill within traditional Victorian Streetscapes.
5. Shape the retail Streets and mixed use areas to ensure high quality, people-oriented public realm.
6. Ensure development encourages walking, cycling and public transport usages through layout and design responses.
7. Ensure new development is sustainable and adaptive over time.
8. Manage the built form profile of new development to avoid adverse impact to surrounding areas, including heritage places, Streetscapes and residential interfaces.

View of varied built form along Argyle Street

10 Precincts

The 10 precincts within the Brunswick & Smith Street Built Form Review are:

Stage 1 (May 2017 to November 2019)

- Precinct 1: Brunswick Street (B);
- Precinct 2: Smith Street (S);
- Precinct 3: Gertrude Street (G);
- Precinct 4: Johnston Street (J);
- Precinct 6: Fitzroy East (FE);
- Precinct 7: Collingwood (C);
- Precinct 8: Town Hall (TH);

Stage 2 (Commenced February 2020)

- Precinct 5: Fitzroy West (FW);
- Precinct 9: Alexandra Parade (A); and
- Precinct 10: Victoria Parade (V).

This report addresses **Precinct 5: Fitzroy West.**

1.2 Built Form Precincts

Based on the initial analysis phase of the project the following Precincts were identified spatially as relatively coherent parts. The Precincts are largely defined by function as either:

- An Activity Spine;
- A Mixed Use Area; or
- A Boulevard.

Activity Spines

The Activity Spines are defined by the 'traditional' retail and commercial functions along the four main streets within the review area of:

- Brunswick Street;
- Smith Street;
- Gertrude Street; and
- Johnston Street.

Mixed Use Areas

The Mixed Use Areas are defined by the mixed use functions present in the non-residential land located generally in local streets, behind the Spines. The four renewal areas within the review area are:

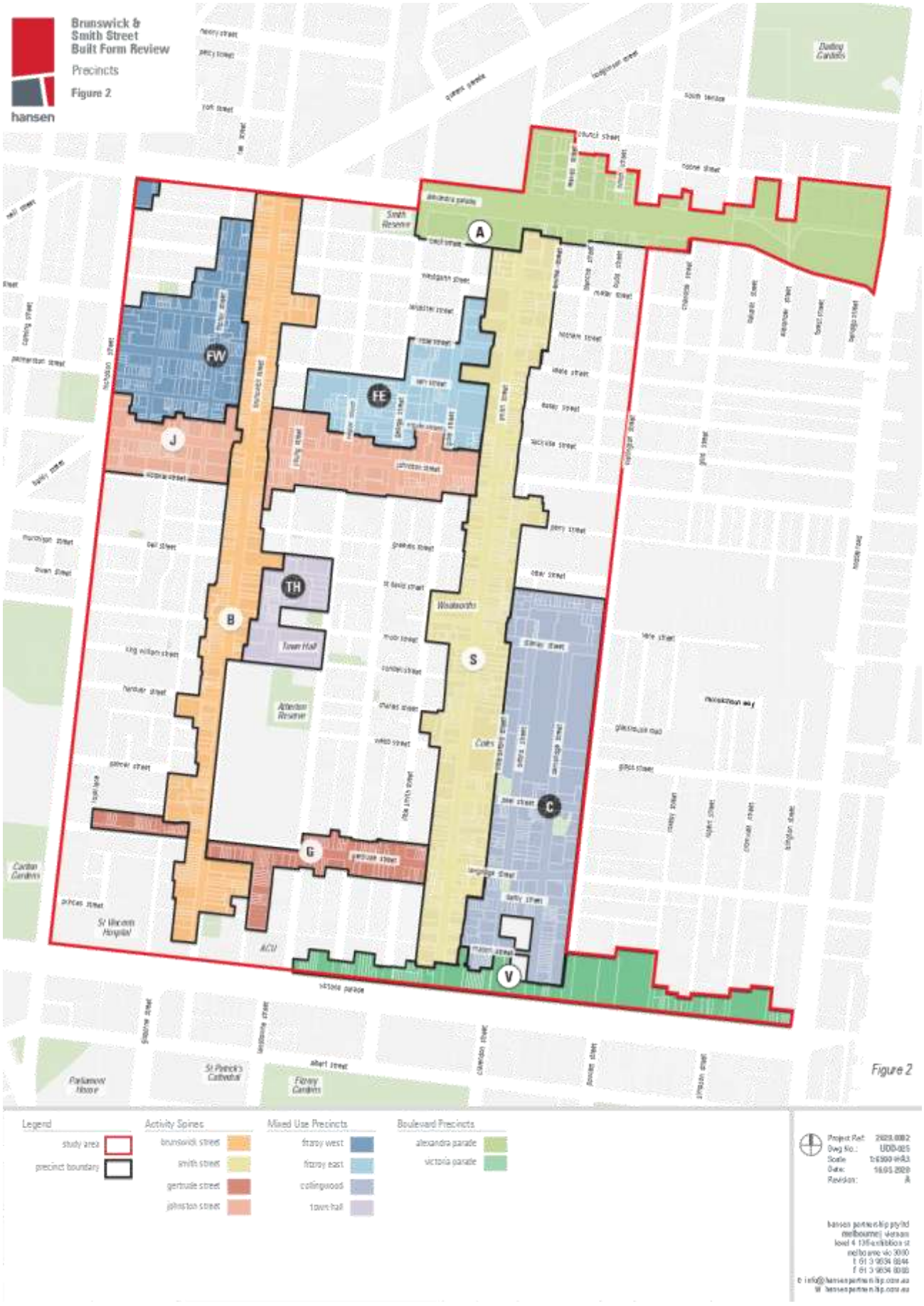
- Fitzroy West (this report);
- Fitzroy East;
- Collingwood; and
- Town Hall.

Boulevards

The Boulevards are the non-residential land to the northern and southern edges of the review area which front the broad road corridors of:

- Alexandra Parade; and
- Victoria Parade.

Attachment 3 - Attachment 3 - Fitzroy West Built Form Framework



PART 2: PRECINCT INFLUENCES

Boundary Description

This precinct comprises land subject to the Mixed Use Zone and Commercial 2 Zone between Nicholson Street in the west and to the rear of lots to Brunswick Street in the east.

As oulined in Figure 2, the Fitzroy West precinct extends north-south between the rear of lots to Johnston Street and properties with a frontage to Alexandra Parade at the corner with Nicholson Street. The precinct excludes land within the Neighbourhood Residential Zone on Leicester, Westgarth and Cecil Streets.

Built Form Character

Fitzroy West is a highly diverse precinct, positioned behind the Brunswick Street and Johnston Street Activity Centre spines and divided by land subject to the Neighbourhood Residential Zone.

The character of the precinct speaks to the ad-hoc nature of development occurring across Fitzroy from the mid-1800s. The precinct comprises a network of narrow one-way streets and broad, tree-lined streets in combination with an eclectic mix of building typologies arranged on a varied subdivision pattern.

The precinct is defined by clusters of attached traditional Victorian dwellings of 1 and 2 storeys, larger contributory and non-contributory warehouses as well as scattered Victorian retail and commercial forms, found along Nicholson Street and to corners along Fitzroy Street. There are also several commercial car parks (which also function as weekend markets) on larger sites to Rose Street.

Recent medium density development is evident, with the most recent typically occurring along Rose and Argyle Streets, comprising apartments between 3 to 6 storeys, generally built to all boundaries.

Contributory and non-contributory warehouse forms along Kerr Street

2.1 Foundations

Setting a vision for the Fitzroy West Precinct must be underpinned by an understanding of the diverse physical conditions, including the fabric of existing and approved developments, pattern of heritage forms, critical views as well as other relevant considerations which form the 'foundations' of a future built form framework and development recommendations. This is illustrated in Figure 3 and can be described as follows:

Heritage

Most of the study area is subject to the Heritage Overlay (HO334 South Fitzroy Precinct), comprising a mix of individually significant and contributory intact buildings from the Victorian and Edwardian-era. The heritage building stock includes fine-grain dwellings, commercial forms, warehouses and several proud corner hotels. There is also a site within the Victorian Heritage Regiester (VHR) inside the study area, forming part of the former cordial factory at 8-12 Spring Street and 14-16 Argyle Street.

There is an urban block in the study area which is not subject to the Heritage Overlay. Land bound by Nicholson Street, Henry Street, Spring Street and Argyle Street (except for No. 7 Henry Street) does not form part of HO334 or an individual heritage overlay.

Fine-grain heritage

Rows of continuous, attached, one and two storey Victorian dwellings are a defining character of the precinct. These forms vary in architectural style, detail and finishes, but represent the traditional residential neighbourhoods of Fitzroy found behind the commercial spines of Brunswick and Smith Streets. Clusters of these houses are typically found along Kerr Street (both sides), Henry Street (north side), Westgarth Street (both sides) and the southern end of Fitzroy and Spring Streets, behind Johnston Street.

Heritage warehouses

Another defining feature of the precinct, contributing to the diversity of built form within the precinct, are the presence of traditional single and double storey warehouses, many of which are found to the south side of Kerr Street. Warehouses are typically constructed of red brick with lighter brick or render detailing to windows and parapets. Several warehouse forms comprise pitched parapets and roofs, presenting as a defining feature of the street.

Contributory dwelling at Argyle and Spring Streets

Contributory dwellings along Westgarth and Fitzroy Streets

Individually significant warehouse along Leicester Street

Individually significant warehouse along Argyle and Spring Streets (VHR)

Non-contributory sites

There are several non-contributory, broad frontage sites across the precinct. These sites are typically located on Rose Street and Nicholson Street. A number of these sites accommodate large format post-war warehouse forms comprising commercial and light industrial uses. This includes the 2 sites on Rose Street hosting the Fitzroy and Rose Street Markets (No. 54 and 75 Rose Street).

Recent development trends

The precinct has experienced varying levels of change in the form of medium density housing over recent years. The highest level of change has occurred along Rose Street, with examples of townhouse and apartment typologies ranging between 3 and 6 storeys including street wall heights of typically 3 storeys (generally built to all boundaries). Recent approvals in the precinct include new buildings on large corner sites of up to 7 storeys. This includes a 6 storey mixed-use development comprising the retention of a heritage warehouse façade at No. 75 Argyle Street. Along Kerr Street, there are examples of recent medium-density development comprising setbacks to the street (commensurate with neighbouring single dwellings) accommodating ground level terraces. Other development trends in the surrounds includes infill townhouse and apartment forms between 3 and 5 storeys.

Commercial 2 and Mixed Use Zones

The precinct is defined by 2 land use zones, which prescribe important considerations when contemplating future built form. To Nicholson Street, sites within the study area are subject to the Commercial 2 Zone, where residential uses are prohibited under the zone. New development in the C2Z will typically be in the form of office and/or retail uses, with a primary frontage to Nicholson Street. The remainder of the study area (behind the north-south commercial spines) is subject to the Mixed Use Zone. Under the Planning Scheme, the MUZ is inherently a residential zone, although allowing for the integration of retail and commercial uses (typically at the ground and occasionally first floor). This policy condition is a necessary consideration when contemplating future rear interface controls to these sites.

Non-contributory sites along Westgarth Street

Recent 4 storey development along Kerr Street

4 to 6 storey development on Kerr and Rose Streets

Narrow road profile along Rose Street (10m)

Street width

The study area comprises a mix of street widths contributing to the diverse experience and character of the area. Most of the streets are aligned in an east-west direction. Westgarth and Kerr Street are both 20m wide comprising designated 'sharrow' cycle functions and marked angled parking to both sides of the street. Cecil, Rose and Argyle Streets are 10m wide streets comprising one-way traffic west bound and unmarked parallel parking. Fitzroy and Spring Streets are 10m wide north-south oriented streets, with parallel parking to both sides. Fitzroy Street is a one-way designation (south bound) and serves as an important connection between Alexandra and Victoria Parades.

The study area also has a frontage with Nicholson Street, a 30m wide road reserve, extending between Brunswick East in the north and Victoria Parade in the south. This street accommodates tram route 96, with recently completed tram super stops located at Johnston Street and Leicester Street. The north of the study area, has a direct interface with Alexandra Parade (north), a 30m-60m wide boulevard accommodating high volumes of vehicle traffic in an east-west direction.

Subdivision Pattern

The study area comprises a significant variance of allotment sizes, frontage widths and depths contributing to the diverse character of the precinct. As described in the Statement of Significance for the South Fitzroy Heritage Precinct (HO344) *"the lack of controls on the size and orientation of subdivision allotments and the width of roads, together with a general lack of cooperation or coordination between landowners, led to the emergence of an ad-hoc street pattern and layout of allotments…"*. Recent development and lot consolidation has also contributed to the diversity of the subdivision pattern.

Adjoining built form precincts

The Fitzroy West Precinct is flanked to the east by the Brunswick Street Precinct, one of Yarra's Major Activity Centres and to the south by Johnston Street Precinct, a Neighbourhood Activity Centre. Both corridors comprise some of Melbourne's most intact heritage retail streetscapes. These streets perform as important municipal destinations, defined by a walkable network of fine grain retail and commercial uses, benefiting from overlapping public transport routes within close proximity to Melbourne CBD and the fine residential street grid between the activity centres.

Broad road profile of Kerr Street (20m)

Varied subdivision pattern comprising dwellings, warehouses & recent development

Rear interface between MUZ sites

C2Z site on Nicholson Street with interface to NRZ

Rear interfaces

Unlike other precincts within the Built Form Review, allotments in the study area do not have a consistent rear laneway condition. Given the varied allotment configurations and street network pattern, rear interfaces within the study area comprise a mix of laneway and direct abuttal conditions. To Nicholson Street, there are also instances of lots with a rear interface between mixed use zone and Commercial 2 Zoned lots both with and without laneways. The study area also sits to either side of Neighbourhood Residential Zoned land (between Leicester and Alexandra Parade) and abuts Commercial 1 Zoned land to the south along Johnston Street, comprising rear interfaces with laneways. This varied pattern of interfaces (along with other factors) will continue to guide a varied built form response throughout the precinct.

Green Streets

The linear east-west streets of Kerr and Westgarth Streets comprise significant mature canopy vegetation (deciduous Plane Trees) within the road reserve, enclosing the streetscape. These streets are a stark contrast to other streets within the precinct, which typically have limited street trees and vegetation. These broad 20m wide streets, combined with a high proportion of contributory or individually significant rows of attached dwellings, contribute to the predominant traditional residential character of the streets.

Open Space

There is a lack of notable public open space in the precinct. The only open space or 'park' of note is the Garyowen Park, outside of the study area to the north west on Leicester Street. This open space, surrounded by lower-order dwellings provides a reprieve in built form with large mature canopy trees providing shade and amenity. Rose Street serves as an important pedestrian link between the markets and Brunswick Street. Yarra Council have implemented a temporary shared street trial for Rose to test whether and if, how a permanent conversion could be realised to improve the public realm and prioritise pedestrian movement and safety.

Special Building Overlay

Land to the north of the study area, including lots to Alexandra Parade, Cecil and Westgarth Streets are subject to the Special Building Overlay. According to the Planning Scheme, an application must be referred to Melbourne Water in accordance with Section 55 of the Act. There may be instances where the water authority may require a raised ground floor to mitigate any potential flooding impacts.

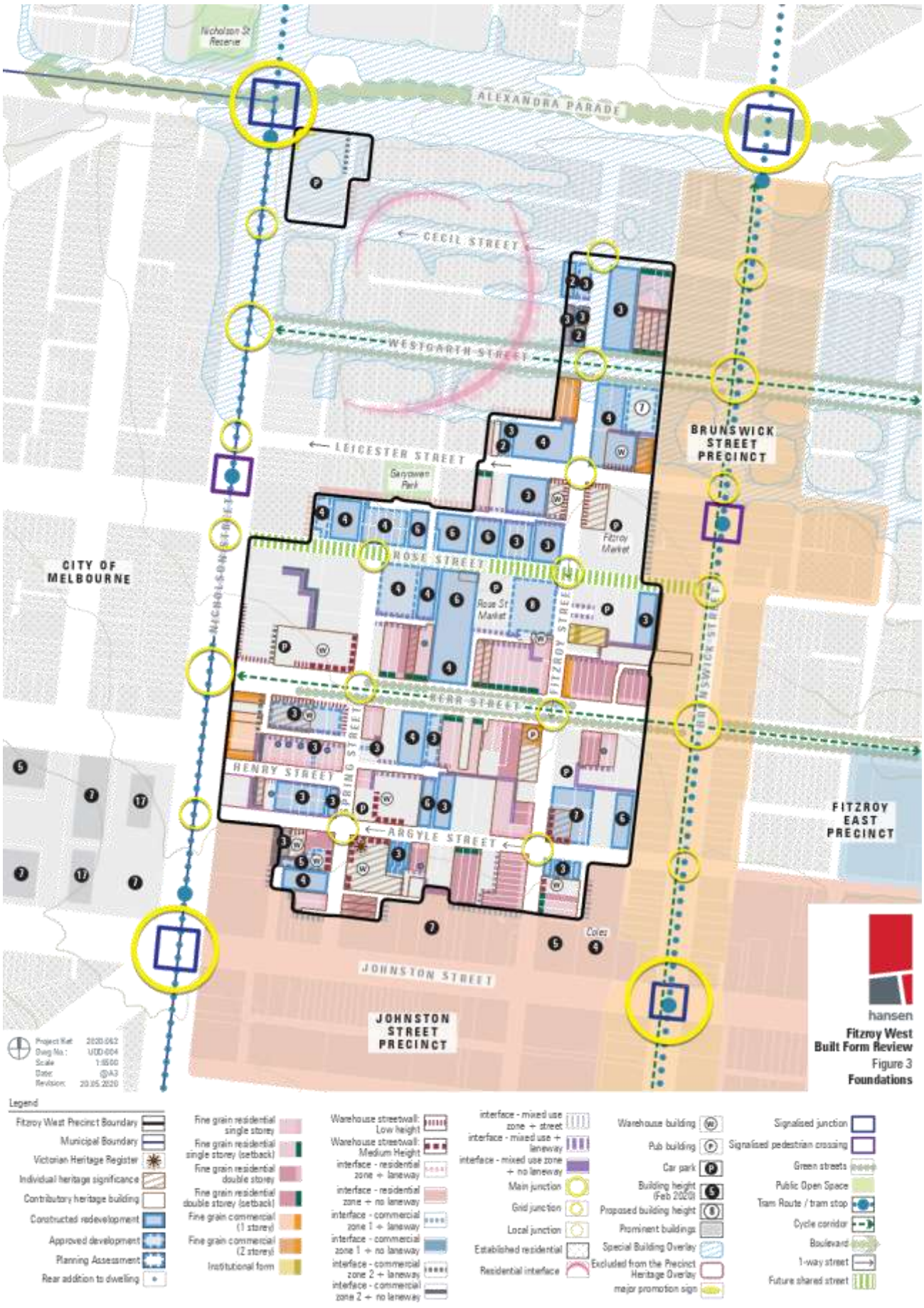
Interface condition between C1Z and MUZ

Westgarth Street green street condition

Streetscape condition of Spring Street comprising no street trees

Area within the SBO to the north-west of the study area

Attachment 3 - Attachment 3 - Fitzroy West Built Form Framework



2.2 Fitzroy West Precinct Built Form Framework

In response to foundation matters, a Built Form Framework has been advanced to reinforce locations for varying levels of change within the study area. A Framework is not definitive (like a Built Form Control Plan), instead it seeks to identify critical 'gestures' of the City. In this instance, the framework recognises the importance of the following attributes with reference to Figure 4:

Heritage values

This precinct has notable heritage values, including most commonly clusters of fine grained 1 and 2 storey residential forms, fine-grained commercial forms and traditional 1 and 2 storey red brick warehouses, many of which are positioned to corners. There is a notable shift in the prevalence of heritage buildings across the study area. The allotments fronting Kerr and Argyle Street comprises a higher portion of contributory buildings compared to the area between Rose and Cecil Streets (and Alexandra Parade). Future built form in these areas must, to varying degrees, respond to the prevailing character of traditional buildings within the streetscape. Modest new additions may be supportable on contributory lots, ensuring the host building remains the predominant element.

Main Roads

Lots with frontages to Nicholson Street and Alexandra Parade comprise considerable opportunity to accommodate a higher level of change, in absence of heritage sensitivity. The broad street widths can potentially allow taller street wall heights compared to the traditional main road spines in Fitzroy and Collingwood, while enhancing the public realm condition at building frontages. Acknowledging these areas are subject to the Commercial 2 Zone, new development is unlikely to be residential unless rezoned in the future. The side and rear interfaces of new buildings should also seek to manage amenity impacts to neighbouring residential land.

Green Streets

Kerr Street and Westgarth Streets are broad streets with a strong residential character framed by dense roadside canopy cover while also serving a critical role in local east-west access (walking and cycling). Future built form will be moderate to reinforce the traditional and domestic attributes of the streets, including the integration of garden setbacks where found adjacent. While there are limited non-contributory sites in these streets, new buildings should adopt a street wall or base height respective of neighbouring contributory forms and ensure no unreasonable overshadowing of the footpath occurs to the south side of the street at the equinox.

Heritage values along Spring Street

Mixed heritage values along Argyle Street

Green Street character of Kerr Street

Frontages to Nicholson Street

Mixed Streets

The area surrounding Argyle Street, Spring Street (south of Kerr) and Fitzroy Street (south of Kerr) is an intact pocket of contributory buildings of varying typologies including clusters of traditional dwellings and warehouses positioned behind the Johnston Street spine. Similarly the small portion of lots along Cecil and Leicester Streets comprise a mix of building typologies, transitioning from the Brunswick Street spine to a low-order residential character outside of the study area to the west. A moderate level of change will occur in this precinct. Future built form should reference this varied condition and adopt a more customised streetscape response while ensuring heritage forms remain visually dominant and provide an appropriate transition to any sensitive residential interfaces.

Regeneration Streets

There is limited contributory heritage fabric along Rose Street with a high proportion of recently completed regeneration on consolidated sites. Future development on the remaining sites is to reinforce the street profile, through complementary street wall heights and a generally consistent upper level presentation.

Subdivision grain

The precinct as a whole is characterised by a diverse subdivision pattern comprising fine-grained lots with residential and commercial stock integrated with broader sites containing traditional industrial warehouse forms. These attributes should not substantially constrain opportunity; however, it is vital for the subdivision pattern (and heritage values) to be retained in all precincts to reinforce the fragmented fabric that references the early development pattern of Fitzroy.

Junctions

The definition of street junctions and local corners assists in the legibility of the area. In Fitzroy West, traditional residential, pubs or warehouse buildings often mark the corners on wide streets (20m) and smaller streets (10m). Future built form to junctions should ensure heritage buildings remain the defining elements of corners adopting complementary street wall profiles and recessive upper levels. The major wayfinding junctions of Nicholson Street, Green Streets and key pedestrian streets also provide opportunity for potential public realm improvements such as kerb outstands.

Recent development on Leicester and Fitzroy Street

Mixed street character of Argyle Street

Recent development along Rose Street

Corner profile of Westgarth and Fitzroy Street

Transition

Properties to the north of the precinct including along Rose, Leicester, Westgarth and Cecil Streets perform as an area of transition behind the Brunswick Street and Johnston Street Spines toward the residential area to the north-west (within the NRZ). While the northern extent of the study area comprises recent development and some non-contributory sites, modest renewal should occur in these areas and provide a meaningful stepping down of form toward 1 and 2 storey dwellings outside of the precinct. A similar principle applies to the sites at the corner with Alexandra and Nicholson Street, where new buildings should transition down to the south-east.

Key Pedestrian Connections

Rose Street is an important east-west connection between Brunswick Street, the arts markets and tram stops along Nicholson Street. This street may gradually transform into a shared street arrangement based on Council's future ambitions for the streetscape. While the majority of lots to the north side of the street comprise recent development, it is critical that future built form does not unreasonably overshadow the opposite footpath (south side) at the equinox and avoids contributing to an overly car dominant environment through street frontage presentation.

Leicester Street and Argyle Street are also identified as an important east-west pedestrian connection due to its proximity to tram stops on both Nicholson Street and Brunswick Street. These continuous east-west streets also have a key role in 'stitching' various activity nodes within the broader Brunswick Street, Johnston Street and Smith Street activity centres. The future built form should ultimately seek to enhance the pedestrian experience along these streetscapes.

Fitzroy Street is also an important north-south pedestrian connection, extending the entire Built Form Review study area length between the Alexandra Parade and Victoria Parade. The north and south of Kerr Street demonstrate a clear distinction in the potential for new development along this street. To the north of Kerr Street, much of Fitzroy Street comprises new street wall opportunity on sites currently presenting a secondary frontage or building 'sideage'. To the south of Kerr Street, there is a higher presence of contributory buildings with frontages to Fitzroy Street with limited opportunity for new development.

Where increased pedestrian footfall can be expected along these streets, street level activation and management of long term amenity impacts to the public realm should be prioritised (including solar access, wind mitigation, pedestrian scale considerations).

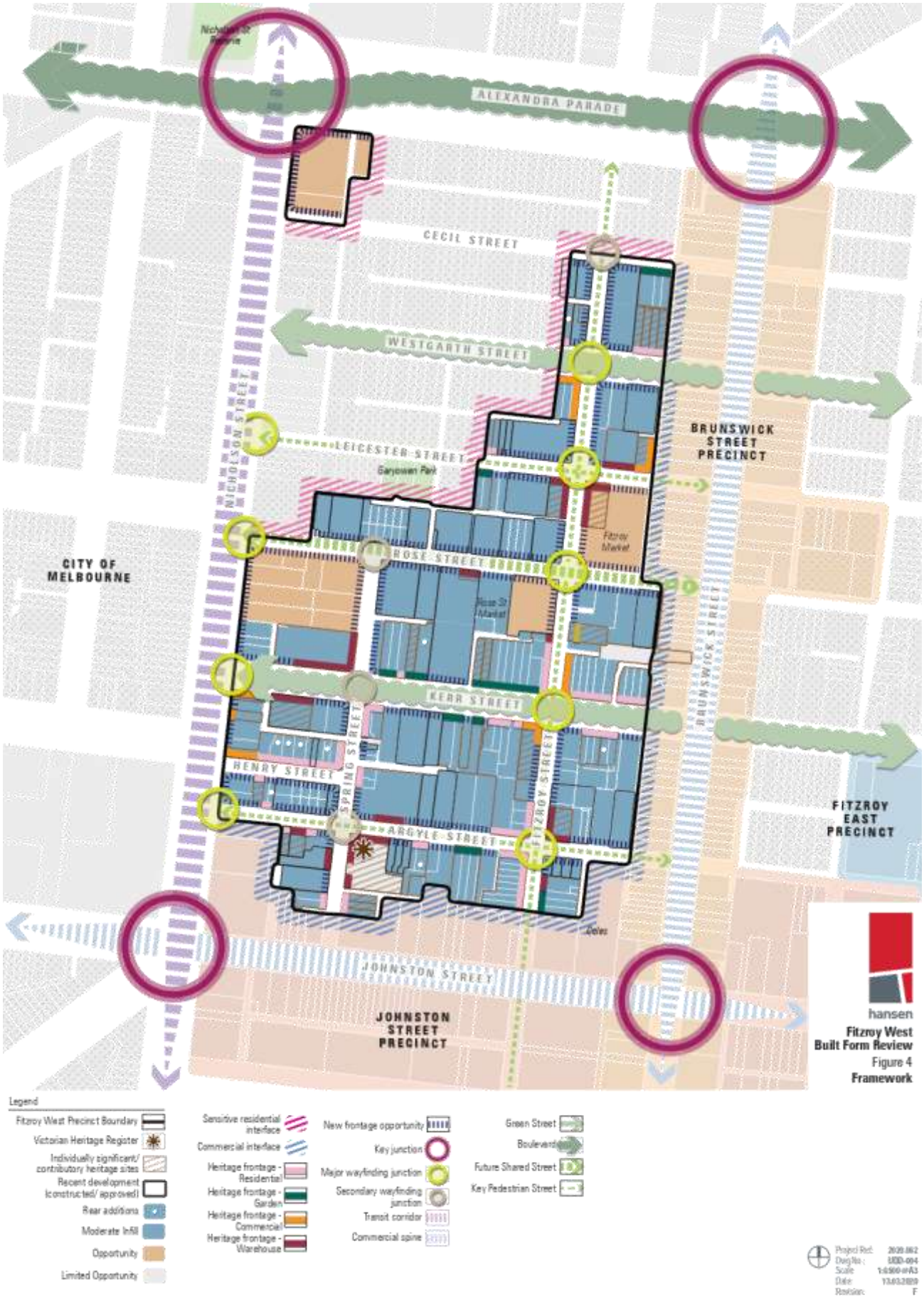
Non-contributory building to Rose Street

Residential land along Leicester Street

Rose Street- a key pedestrian connection & potential future shared street

Fitzroy Street - important north-south pedestrian link

Attachment 3 - Attachment 3 - Fitzroy West Built Form Framework



Future Character Statement

Given this 'Framework' for change, the following future character statement is recommended.

Fitzroy West embodies a strong mixed heritage residential and industrial character and serves as an area of transition between the more active commercial spines along Brunswick and Johnston Streets and the established low-order residential area to the north-west.

This precinct is defined mostly by its grid street arrangement, with prominent east- west streets providing key pedestrian links between activity spines and transit corridors. The precinct is also characterised by a high frequency of corner sites, often defined by heritage forms. Future development will continue to retain prominence of these heritage corners while contributing to wayfinding experience within and to the periphery of the precinct.

Any new development within this precinct should be incremental in scale and must relate most strongly to its heritage context and street profile, which will continue to be framed by a variety of low-rise heritage residential and mid-rise contemporary infill on larger allotments and former industrial sites behind a low street wall profile in response to the heritage streetscape and sense of openness.

Framework Principles

In response to this distinction in the precinct's urban fabric, the preferred future-built form character will seek to build on its key attributes by adopting the following principles:

1. Retain and respond to low-rise heritage residential and industrial character of the precinct with incremental infill opportunity across the precinct.
2. Accommodate contemporary moderate, infill forms along Alexandra Parade, Nicholson Street and on large sites along Rose Street and Argyle Street.
3. Retain the diverse subdivision pattern referencing the narrative of early development within Fitzroy.
4. Retain the predominantly low-rise street wall and ensure stret walls turn the corner.
5. Reinforce the wide and narrow street definitions as relevant to the street.
6. Acknowledge existing and approved development.
7. Maintain solar access to opposite footpaths along key pedestrian streets and green streets.
8. Transition to existing heritage and adjoining residential sites.

PART 3: BUILT FORM PROPOSITION

The Built Form Proposition has been derived from the Built Form Framework which was informed by the Foundations Analysis and underpinned by the overall Background Analysis.

The Fitzroy West Precinct Built Form Proposition demonstrates block by block and street by street parameters for the precincts' evolution of new development. The identified parameters are neither fixed, or absolute but are intended to guide future change. The proposed proposition or 'controls' are represented in Figure 4 and are derived from the following basis:

- Heritage assessment and advice;
- Municipal Housing Strategy;
- Precinct character;
- Solar access;
- Local views and vistas;
- Heritage Street walls and upper levels;
- New street walls and upper level setbacks;
- Heritage frontage (including front setback);
- Transitions;
- Residential interfaces and amenity; and
- Building separation, amenity and equitable development.

The rationale for height parameters is outlined as follows:

3.1: Basis for Height Parameters

Heritage Input

GJM Heritage provided extensive heritage input based on comprehensive analysis comprising:

- The heritage grading of each property within the Heritage Overlays;
- The currency of existing Statements of Significance;
- Confirmation of places with Victorian Heritage Register nomination;
- Identification of local landmarks; and
- Recommended built form parameters to appropriately manage development within the heritage context.

Refer to GJM Heritage Report for details.

Housing Strategy

With reference to the adopted Housing Strategy for the Municipality (adopted 2018), the Fitzroy West precinct is identified as a part of the Brunswick Street Major Activity Centre, designated for incremental change, given presence of a cohesive and highly intact heritage and fine grain buildings. The Housing Strategy identifies future development to be in the form of smaller scale apartment developments and alterations and additions to existing buildings.

Precinct Character

Key characteristics that distinguish the Fitzroy West Precinct are attributed to intact heritage fabric, presence of mature street trees along east-west 'green' streets, narrow streets and varied street setbacks. Diversity in built form is attributed to a variation in the subdivision pattern, land use function and built form typology (dwellings, traditional shop fronts or warehouses). New development should seek to respond to the unique contextual characteristics and respond to unique sensitivities as required.

Street Proportions

Default preferred maximum building heights have been derived in relation to the adjoining street width. This has been based on considerable analysis and documentation of the existing relationships throughout the broader study area, which has shown there to be a strong correlation between the width, function and character of the street to the height and profile of the buildings which line it.

This study also recognises that street width relationship to the overall building height also has a strong correlation with the street's function and streetscape character.

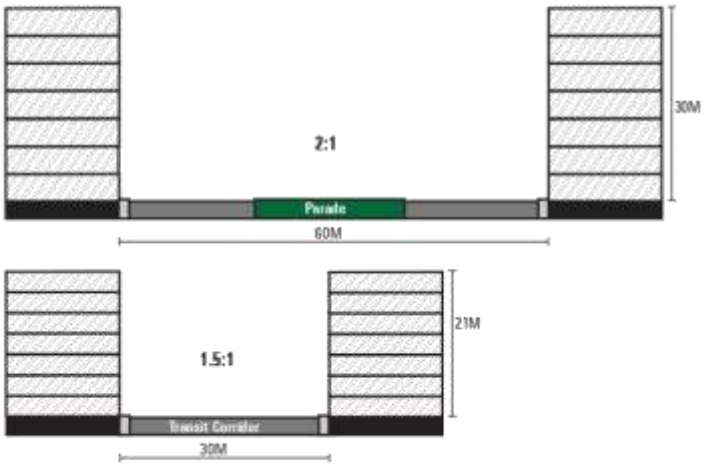
However, in order to respond to the prevailing streetwall scale, set backs to upper levels are required. They are also determined by the size and depth of lots, noting need for rear boundary transition conditions.

Parade Presence & Transit Corridor

Alexandra Parade (60m) and Nicholson Street (30m) are distinctively characterised by open, broad profile with a wide central median planting to Alexandra Parade and a tram corridor in the central median along Nicholson Street.

Therefore, as a starting point, the preferred overall building height of new forms along these open streets will seek to balance the opportunity presented by the generous road proportion with retaining the sense of openness. Importantly, it is also critical that future development continue to respond to its broader streescape character and heritage setting. The following is recommended:

- Up to 2:1 – Street width to overall building height ratio (main road corridors at key junction locations, large size lots).



A street width to building height ratio of up to 2:1 for parade and transport corridor

Typical streets

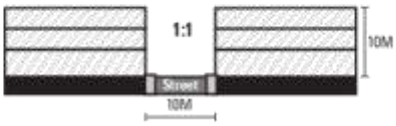
Based on analysis, a proportionate relationship between street width and building height suitably balances a street edge definition, pedestrian scale consideration at the street level and outdoor amenity.

Therefore, as a starting point, the preferred overall building height of new forms can be determined by the width of the street which ranges between 10-20m in the context of Fitzroy West. The size and depth of allotments and lack of sensitive interfaces was another factor when considering an increase in the default ratio as small and shallow lots would not be able to accommodate taller forms.

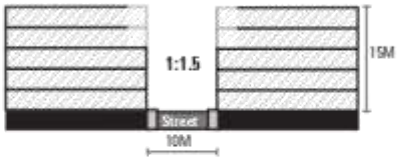
The proportionate relationship between street width and overall building heights for Fitzroy West along its narrow streets, seeks to retain an open view to the sky from within the footpaths and ensure future development does not overwhelm the heritage setting.

The following is recommended:

- Up to 1:1 – Default street width to overall building height ratio (for fine grained lots on streets between 10m-20m wide).
- Up to 1:1.5 – Increased street width to overall building height ratio (for moderate size lots on streets between 10-20m wide).



A default street width to building height ratio 1:1 for local streets (10-20m) for fine grained lots



A default street width to building height ratio 1:1.5 for local streets (10-20m) for moderate sized lots

Solar Access to the Public Realm

In inner urban areas such as Fitzroy, solar access to the public realm is an important consideration. Therefore, future urban form should protect solar access to key streets and open spaces appropriately to ensure 'life and attraction' at the street level for residents and visitors.

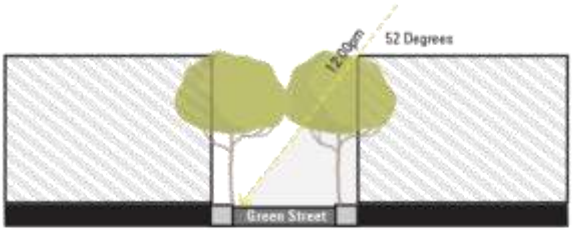
The Urban Design Guidelines for Victoria contains the following relevant Objectives and Guidelines:

'Objective 5.1.3 To ensure buildings in activity centres provide equitable access to daylight and sunlight', and

'5.1.3a Locate and arrange the building to allow daylight and winter sun access to key public spaces and key established street spaces.'

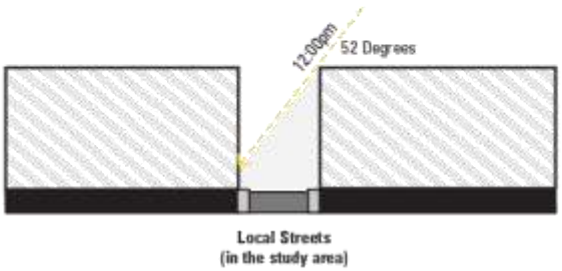
Within the Fitzroy West Precinct we recommend the following solar access measures to maintain appropriate solar access to the public realm, measured on 22 September (the equinox):

- **Green streets:** along Westgarth Street and Kerr Street, avoid overshadowing of the southern footpath between 10am and 2pm.
- **Key pedestrian streets and key east-west streets:** along Leicester Street and Argyle Street avoid additional overshadowing of opposite footpaths between 10am and 2pm.
- Parts of footpaths along Rose Street (west of Fitzroy Street) and part of Fitzroy Street (between Kerr Street and Rose Street) are already overshadowed by recent construction. New development should minimise additional overshadowing of opposite footpaths along these key streets between 10am and 2pm.
- **Other streets (within the study area):** along Spring Street and Henry Street, avoid overshadowing above the ground floor of buildings. On narrower perpendicular side streets, some overshadowing of footpath (south side) is inevitable. It was determined that protection of solar access to first floor should be supported.
- **Other streets (outside the study area):** avoid overshadowing of footpaths to opposite side of the street between 10am to 2pm.



12pm equinox solar angle along 20m wide Green Street

10am and 2pm equinox solar angles along 10m wide key pedestrian street (north- south)



12pm equinox solar angles along 10m wide streets (in the study area)

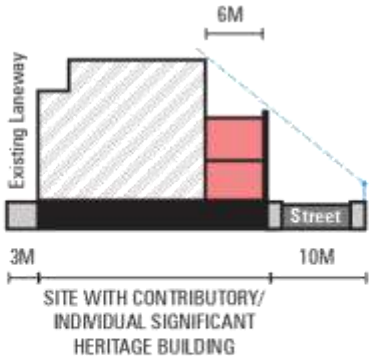
Heritage Street Walls and Upper Levels

Within the Fitzroy West study area, there is extensive heritage fabric which is to be retained and enhanced. The recommended upper level setback parameters for contributory or individually significant sites draw on the objectives and provisions of Clause 22.02, 22.10 and 22.14 as well as heritage advice from GJM Heritage.

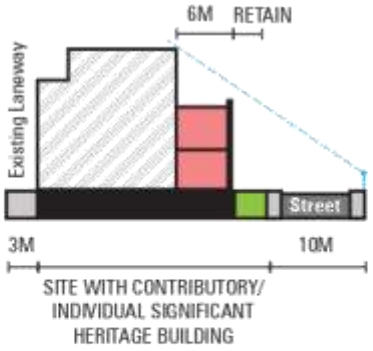
A **default 6m measurement** (from the facade) to the new built form including balcony line) is applied to all contributory and individually significant sites.

This is to ensure adequate protection of the primary heritage 'volume' (including chimneys, and exposed roof forms). The default upper level setback will also protect facade articulation in the streetscape elevation with spatial separation between the street wall or frontage and recessive upper levels (behind).

Where opportunity for taller development exists behind the heritage volume, an upper level setback greater than the default 6m will be required in addition to consideration of a sensitive architectural design treatments (massing, form and materiality) to ensure the new form does not visually compete with the heritage element.



Preferred setback above heritage street wall



Preferred setback above and behind heritage frontage

Heritage Frontages

Based on an understanding of heritage advice and the distinct built form character across the precinct, the following parameters guide the preferred built form response for heritage frontages in the study area:

- Heritage forms (both VHR and Non-VHR) should retain existing heritage frontages, including front setbacks. This is particularly relevant to Kerr Street, Westgarth Street, Argyle Street, Cecil Stret and Fitzroy Street where existing heritage forms (including single-storey residential) are setback from the street frontage for front gardens and terrace.
- Retention of all built fabric within sites with VHR designation (14-16 Spring Street). It also precludes new built form within the 'air rights' above VHR buildings.
- Where new buildings are proposed within the side or rear setback of VHR sites, they are to be positioned behind existing structures, ensuring heritage frontages are not concealed by new forms from streetscape views.
- New built form to the rear of individually significant residential heritage forms, including single and two storey terraces should ensure upper levels are highly recessive in view.

New Street Wall and Upper Levels

In urban areas, urban design guidelines typically seek to introduce a 'street wall' and 'upper-level front setback' measure. The purpose of such a distinction and separation is to maintain the prominence of 'traditional' frontages within the streetscape while enabling new and increased heights in a recessive order. Upper-level setbacks also retain a sense of openness to the street, which is prominent in a pedestrian's field of vision and reinforces the traditional street wall scale.

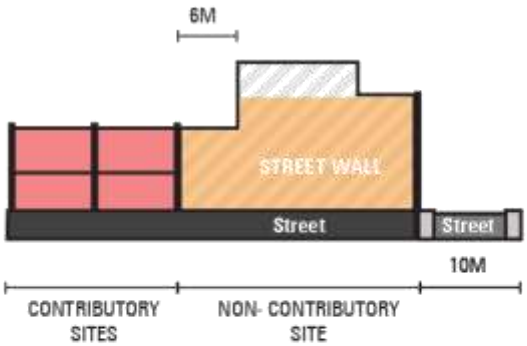
New street wall heights

The Fitzroy West precinct has a diverse mix of street wall and frontage heights, including pockets with narrow front garden setbacks. New street walls should acknowledge the prevailing height of adjacent contributory or individually significant heritage forms and adopt a complementary street wall height.

Importantly, new street walls should not diminish the heritage qualities of the streetscape. Where a site is adjacent to a single storey heritage form, a street wall transition is considered appropriate in ensuring the traditional form is not overwhelmed by new development.

The following is recommended:

- A **'default' street wall height of 2 storeys** (8m) is applicable for sites adjoining contributory/ individual significant heritage sites, or where a prevailing heritage streetscape is present, such as Cecil Street, Westgarth Street, Leicester Street, Kerr Street, Argyle Street, Spring Street and Fitzroy Street. The 2 storeys street walls at non- contributory corner sites will also respond to key junctions which are currently framed by heritage corners on two or three sides including:
  - Fitzroy Street with Leicester Street (2 sides).
  - Fitzroy Street with Kerr Street (3 sides).
  - Fitzroy Stret and Argyle Street (3 sides).
  - Spring Street and Kerr Street (2 sides).
- An increased **street wall height of 3 storeys (11.2m)** is recommended for non-contributory sites. The 3 storey street wall reponds to the prevailing low-rise forms (2-3 storeys) within the outside the study area and the narrow street profile. Along Rose Street, new street walls should reference the prevailing street wall heights of recent infill development at 3 storeys (11.2m). This complements the role of the street as a future shared street, maximising opportunities for passive surveillance and activity to the public realm. Where future developments contribute to wayfinding and where heritage and residential sensitivites are limited, a street wall height of 3 storeys (11.2m) is also recommended for corner sites including at the following junctions:
  - Fitzroy Street and Rose Street.
  - Spring Street and Rose Street.
  - Nicholson Street and Rose Street, Kerr Street, Henry Street and Argyle Street.
- At the corner of **Nichsolson and Alexandra Parade** a taller street wall height of 4 storeys (14.4m) is considered appropriate in demarcating a notable junction in the precinct and acknowledging the lack of sensitive interfaces to the north and west of the site. This street wall height also complements the controls applied to the corner of Johnston and Nicholson Street in the south (refer Johnston Street Built Form Framework).
- In some instances, sites have direct abuttals to contributory heritage sites. New street wall should **transition** from taller street wall to respond to the abutting heritage parapet for a length of approximately 6m or to the nearest property boundary (if less than 6m).



Preferred street wall transition for corner sites

Upper level setbacks for non-contributory sites

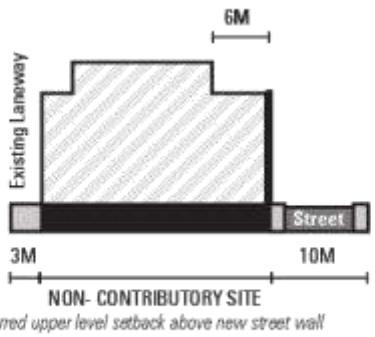
The purpose of the upper level setback is to:

- Provide a clear distinction between 'base' and 'top'.
- Create a degree of consistency for upper levels that comprises a mix of heritage and non-heritage forms.
- Ensure the new upper level does not visually dominate the streetscapes.
- Ensure no unreasonable overshadowing of the public realm (taller buildings may require upper level setback greater than 3m to meet the overshadowing requirement).

To ensure the visual distinction between new street walls from upper levels, to retain a visually dominant street wall and in response to heritage streetscape, **a 'default' 6m upper level setback** (from the street boundary to building facade including balcony line) is applied to all non-contributory sites fronting:

- Nicholson Street and Alexandra Parade for emphasizing a dominant street wall, to respond to the open profile and prevailing streetscape character.
- Cecil, Westgarth, Kerr and Argyle Streets to be visually recessive and subservient to heritage fabric in response to more intact streetscapes and to retain an open sky view from the within the public realm.
- Key corners at intersections of Leicester and Fitzroy Streets, Argyle and Spring Streets and Argyle and Fitzroy Streets to retain visual prominence of the industrial buildings at key corners.

A reduced setback (3m) is applicable to Rose Street, Fitzroy Street, Spring Street (north of Kerr Street), Henry Street where solar access to the public/ private realm can be achieved and the visual exposure of new upper levels does not compete with the street wall or adjacent heritage form or where there is already an established setback line from recent development.In the context of the study area, Fitzroy Street and Spring Street are mostly presented with 'sideages' to fine grain properties. A reduced setback is considered an appropriate response to the fine-grained subdivision pattern.



Preferred upper level setback above new street wall

Upper Level Expression

The design of upper levels of new development should:

- Be well articulated and break up the building mass;
- Distinguish between the lower and upper levels through materials and articulation;
- Be designed so that sidewalls are articulated and read as part of the overall building design and not detract from the streetscape when viewed from direct and oblique views along the streetscape; and
- Provide passive surveillance of adjacent streets and public open space.

Transition

In this part of Fitzroy, the transition in building height is gradual and is guided by the character of the main road corridors that border the precinct.

Brunswick Street is an important traditional retail spine to the east. New built form proposition behind heritage frontages is in the order of 3 to 5 storeys to maintain the prominence of heritage buildings (refer to Brunswick Street Built Form Framework). While taller built form can be accommodated on larger lots behind the spine, future built form in the precinct should acknowledge the important view corridor along Brunswick Street and ensure the height of buildings does not overwhelm the backdrop of traditional fine grain frontages.

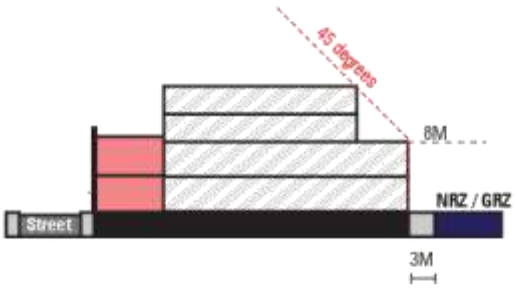
Johnston Street retail spine defines the precinct's southern boundary. New built form proposition behind heritage and non-heritage frontages is in the order 5 to 7 storeys, with an opportunity for a corner definition at the north eastern junction of Jonston Street and Nicholson Street (refer to Johnston Street West Built Form Framework). Consistent with the Brunswick Street spine approach, built form heights in the Fitzroy West precinct does not seek to compete with the urban morphology envisaged for key activity spines.

To Nicholson Street (west) and Alexandra Parade (north) the width of the road allows increased building heights toward this edge. New built form should seek to transition in height to existing residential and heritage forms found on east-west streets to the east. Within the Fitzroy West precinct, larger sites may be able to accommodate a gradual transition within its own site, through recessive upper levels, or variation in street wall heights. Overly stepped forms, or 'wedding cake' outcomes should be avoided.

Future development with an immediate abuttal to individually significant heritage sites, or sites with VHR designation should also accommodate height and potential setback, to avoid overwhelming and visually dominating the heritage forms. The appropriate level of transition should be assessed on a case by case basis during town planning application phase.

Residential Interfaces (including laneway)

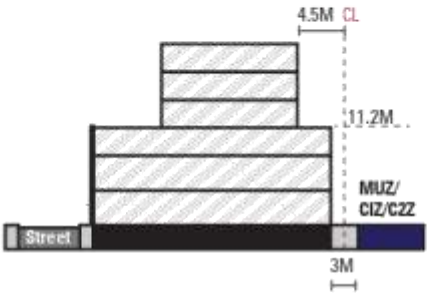
Fitzroy West does not comprise a significant number of lots with a rear interface with Residential Zoned land. The majority of residential interfaces are separated by rear laneways and there are few instances where lots have a direct abuttal to residential properties. Residential interfaces are often defined by secondary frontage or party walls (1- 2 storeys). Along these residential interfaces (with, or without laneway separation), an 8m (2 storeys) form built to the boundary is required with a recessive upper-level setback (behind a 45- degree setback envelope) to ensure residential amenity is protected.



Preferred built form transition to residential zone land (GRZ/NRZ)

Non-Residential Interfaces (including laneway)

The precinct comprises a mix of rear interface conditions including laneways of varying widths and rear abuttals. Future development should respond to these mixed conditions. Where new development is separated from adjoining non-residential sites by a laneway (typically 3m wide), it should present a maximum 11.2m (3 storeys) form at the interface, with any built form above set back 4.5m from the centreline of the laneway. This ensures a minimum distance of 9m is provided between adjoining sites to facilitate equitable development achieving adequate separation between dwellings.



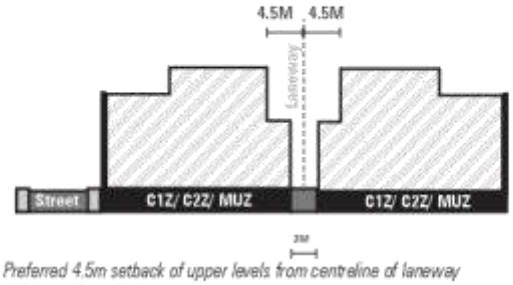
Preferred built form transition to MUZ or C1Z sites

Building Separation, Amenity & Equitable Development

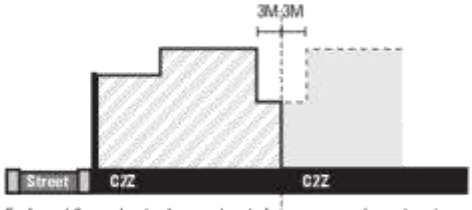
New development should provide a design response that considers the existing condition and future development opportunities of adjacent properties in terms of outlook, daylight and solar access to windows. Development should be setback from common boundaries to provide separation between buildings at the upper levels (above the street wall):

- A minimum of 4.5m from the boundary where a habitable room window is proposed;
- A minimum of 3m from the boundary where a non-habitable room window or commercial window is proposed; and
- A minimum for 4.5m from the edge of a proposed balcony or terrace.

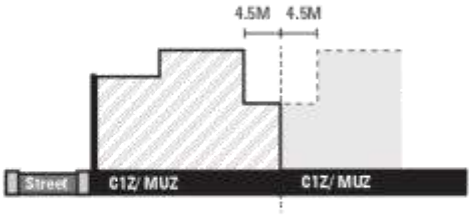
Where the common side boundary is a laneway, the setback is measured from the centre of the laneway.



Preferred 4.5m setback of upper levels from centreline of laneway (minimum 3m wide)

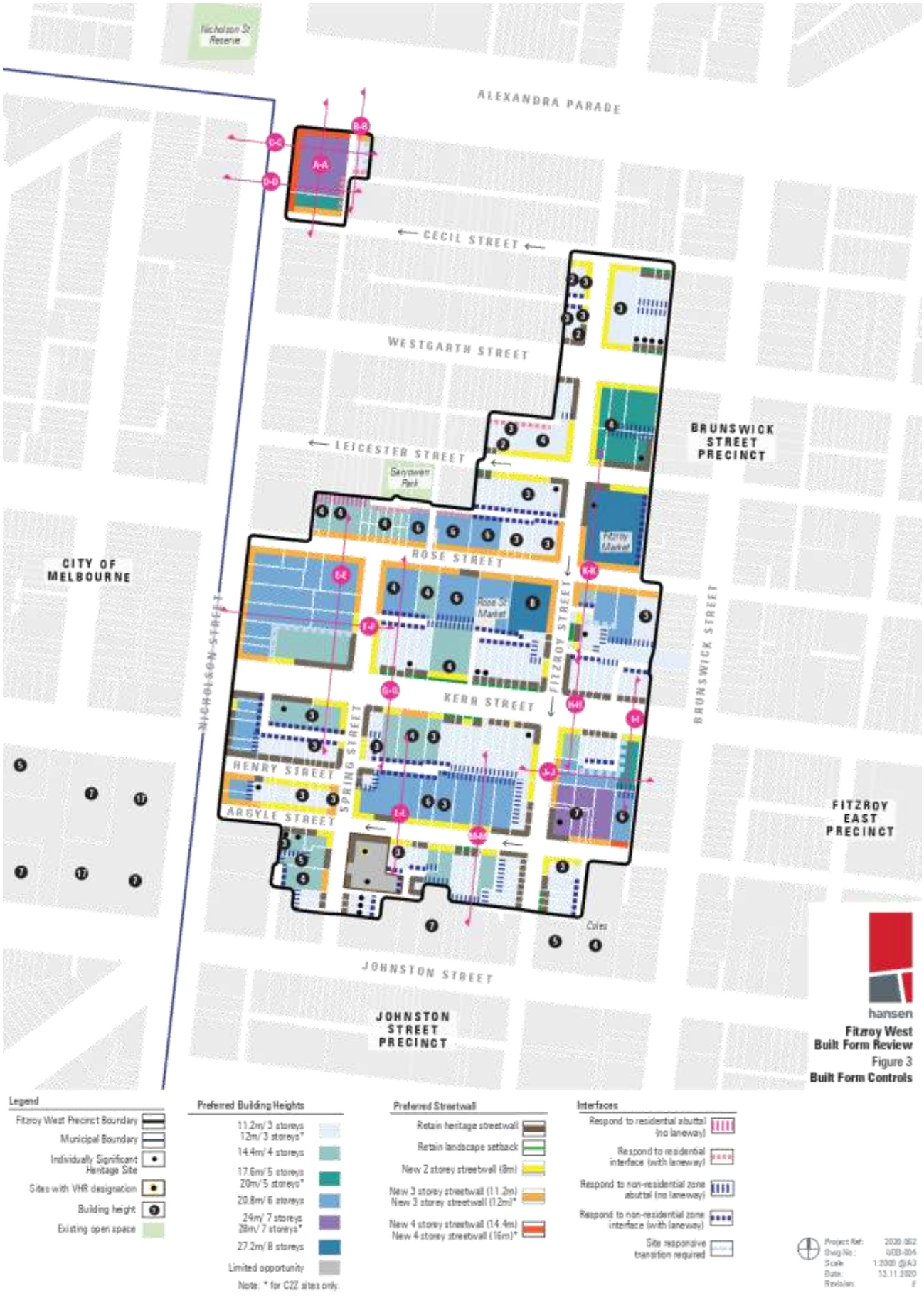


Preferred 3m setback of upper levels from common boundary (secondary outlook)



Preferred 4.5m setback of upper levels from common boundary (primary outlook)

Attachment 3 - Attachment 3 - Fitzroy West Built Form Framework



PART 4: RECOMMENDED CONTROLS

4.1 Methodology

The formulation of future building heights and streetwall conditions within the Fitzroy West Precinct has been influenced by many factors, including:

- Planning Policy Framework;
- Local Planning Policy Framework, including Zones and Overlays;
- Practice Note No. 60 – Height and Setback Controls for Activity Centre;
- Practice Note No. 59 – The Role of Mandatory Provisions in Planning Schemes;
- City of Yarra Housing Strategy (Adopted 4 September 2018);
- Review & Development of the City of Yarra Landmarks Policy (March 2018);
- Urban Design Guidelines for Victoria, 2017;
- Anticipated scale and form of development outside the study area (i.e. within Residential and Employment Zones);
- Views to existing municipal and local landmarks from the public realm;
- Recognition of Yarra's heritage skyline;
- Recent development approvals (including those currently under-construction);
- 3D computer modelling of built form testing for the study area;
- Independent heritage advice and existing character considerations, consistent with the expert heritage advice provided by Council's heritage advisors (GJM Heritage);
- The overall Brunswick Street and Smith Street Built Form Review Background Report (November, 2019); and
- Extensive site inspections and workshops with Council's officers.
- Planning Panel Recommendations for:
  - Johnston Street Local Area Plan (C220);
  - Queens Parade Built Form Review (C223);
  - Swan Street Built Form Review (C191).

4.2 Assumptions

Formula for Deriving Numerical Building Heights

The maximum building heights has been calculated to a higher (than minimum) floor to floor heights in order to:

- Respond to the typical heights found within heritage buildings (between 8-11.2m);
- Accommodate for greater than minimum standards and provide flexibility for future uses;
- Allowance for other design elements to be accommodated, such as parapets, railings, etc.

The following numerical floor to floor dimensions were employed:

- Ground Floor and First Floor: 4m
- Second floor and above: 3.2m

Note: Higher numerical floor levels for mixed use development may be required at upper levels.

Formula for Deriving Numerical Streetwall Heights

The maximum streetwall heights have been calculated based on the above floor to floor heights, plus additional height to allow for parapets, balustrades and minor architectural features.

Zero front setback

New buildings within a commercial and mixed use setting and inner urban areas such as Fitzroy West should generally be built to the street frontage in order to:

- Respond to the prevailing built form character of the area;
- Provide a clear definition at the street edge; and
- Maximise the developable area.

With the exception of retaining existing front setbacks, all new street walls within the commercial and mixed use zone should be built to boundary.

Top Floor Depth

A minimum depth of approximately 10m for the upper most level has been considered in determining overall building heights. This minimum dimension is based on a typical apartment depth, and provision of efficient access.

4.3 Precincts

The preceeding proposition indicated that the Fitzroy West Precinct's propensity for change is primarily influenced by the site's primary frontage to wider and higher order streets, opportunity for land consolidation or narrower local streets.

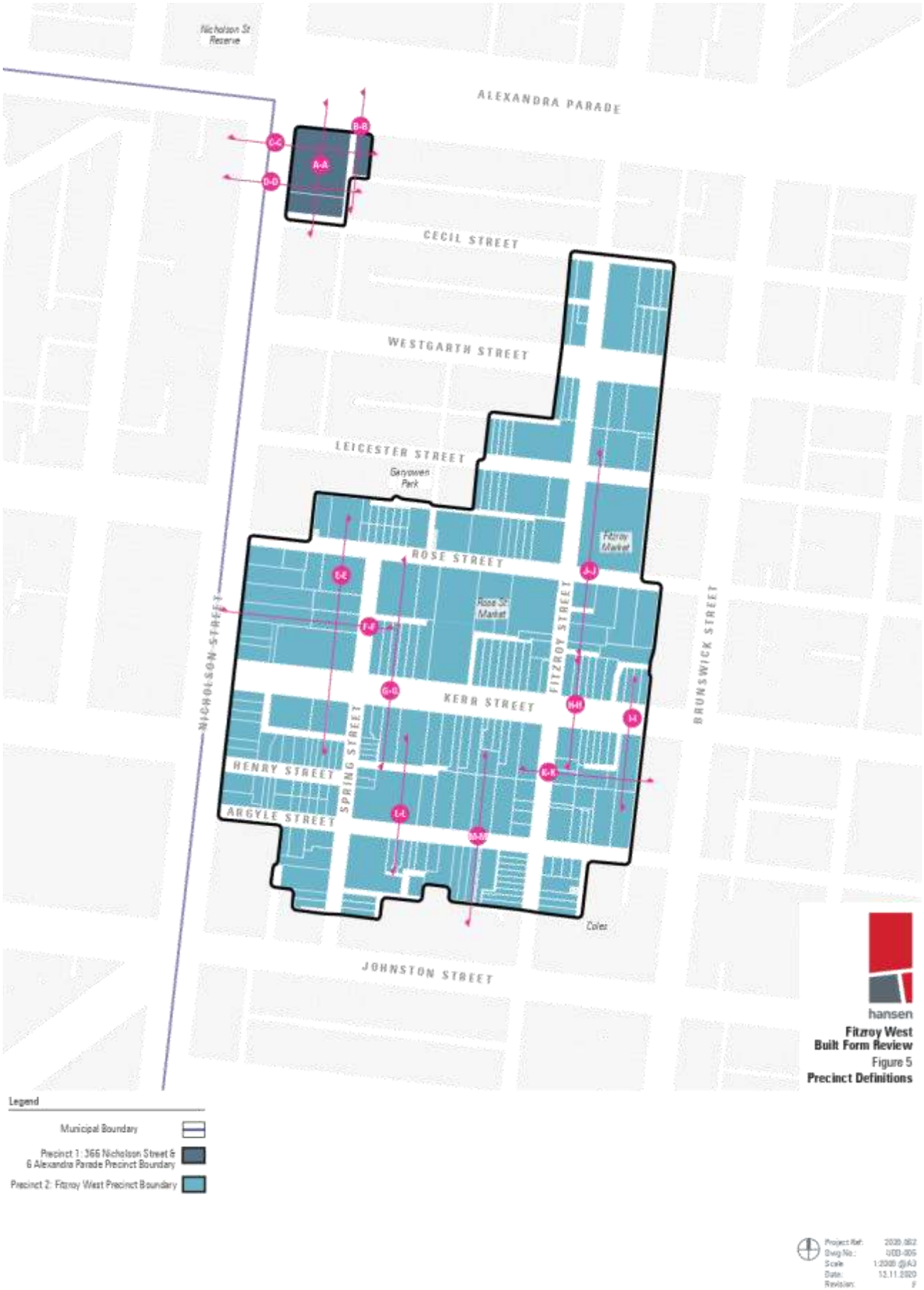
Given the relatively confined and diverse nature of the Fitzroy West precinct, it was considered appropriate not to divide it into smaller precincts. Instead, the sub-precinct definition are intended to identify key areas where site-specific response is warranted given its size and particular conditions.

These are:

SUB-PRECINCT	STREET WALLS / GROUND LEVEL SETBACKS	PREFERRED MAXIMUM BUILDING HEIGHTS
ALEXANDRA PARADE (366 NICHOLSON STREET & 6 ALEXANDRA PARADE)	• 3 storeys (12m) to 4 storeys (16m).	3-7 storeys (12m to 28m)
FITZROY WEST	• Retain existing front setback (as relevant). • Match adjoining heritage eaves/ parapet, or lower. • 2 storeys (8m) to 3 storeys (11.2m). • Preserve existing buildings on VHR sites.	3- 8 storeys (11.2m to 27.2m)

The following diagram illustrates a breakdown of these precinct boundaries (overleaf).

Attachment 3 - Attachment 3 - Fitzroy West Built Form Framework



PRECINCT 1: ALEXANDRA PARADE

366 NICHOLSON STREET & 6 ALEXANDRA PARADE

This site comprises lots with a primary frontage to Alexandra Parade (south side of the Parade) and Nicholson Street (east side of the street), holding the north eastern junction of this notable intersection.

It is noted that the site is currently in Commercial Zone (C2Z) and not identified within the Brunswick Street and Smith Street Major Activity Centre (City of Yarra Housing Strategy, Adopted 2018).

Preferred precinct character statement

There is a moderate level of change expected to occur at this Municipal threshold, contributing to the boulevard character of Alexandra Parade while recognising its immediate residential context is unlikely to change considerably in the long term.

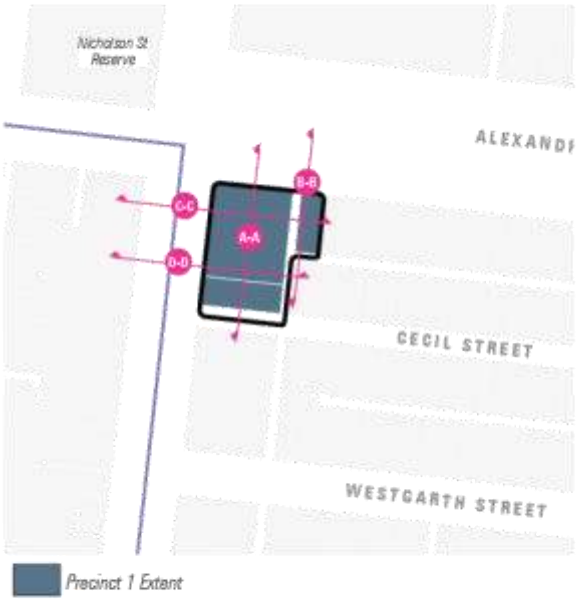
Future development will embrace its corner, main road and heritage influences by adopting new stret walls and a taller building profile along its Alexandra Parade frontage and transition to its sensitive southern and eastern interfaces.

New upper levels will be visually recessive when viewed from Cecil Street in the oblique, ensuring future upper level additions do not overwhelm the pedestrian experience and avoid overshadowing of footpath on the south side.

Built Form Objectives

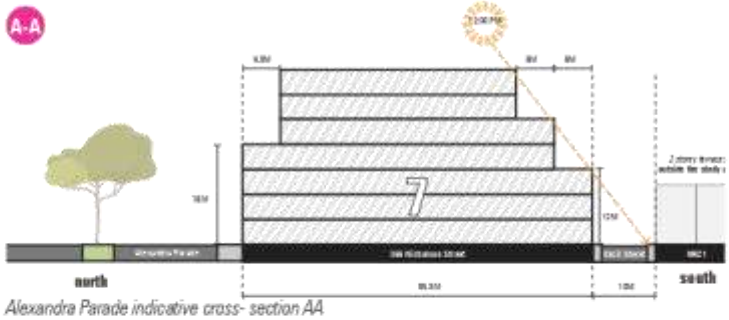
- To encourage a new built form character on the western junction of Alexandra Parade.
- To maintain a sense of openness within the streetscape.
- To ensure a clear distinction between streetwall profile and rising form behind.
- To encourage development that is made up of parts to reinforce the profile of urban blocks in the precinct.
- To sensitively respond to abutting low-rise and heritage forms.
- To provide a transition to residential neighbourhood to the south and east.

Cecil Street looking east

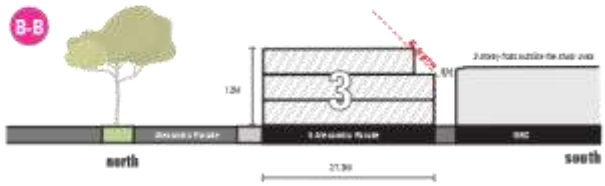


Guidelines

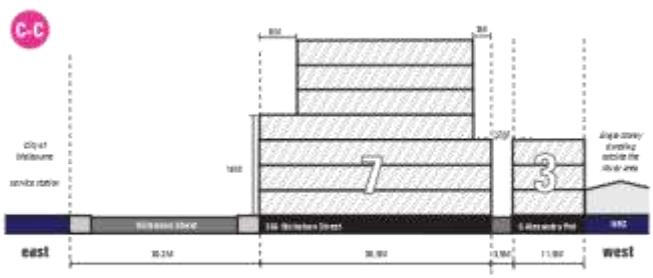
1. Ensure new development reinforces a dominant street wall presentation.
2. Ensure new development on corner sites is designed in the round and 'turns the corner' to address all street frontages.
3. Ensure new development maintains solar access to footpath on opposite side of Cecil Street between 10am to 2pm at the equinox (21 September).
4. Encourage ground level to be setback from the Alexandra Parade and Nicholson Street corner frontage for footpath widening.
5. Ensure servicing and car parking is provided from Cecil Street or side and rear laneways.
6. Facilitate equitable development outcomes to adjacent sites through adequate building separation to rear boundaries.
7. Ensure new development provides opportunities for improved passive surveillance to streets at ground and upper levels.
8. Ensure new development avoids the presentation of overly stepped or 'wedding-cake' presentation.



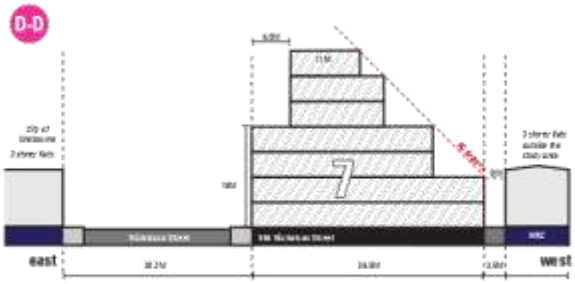
Alexandra Parade indicative cross- section AA



Alexandra Parade indicative cross- section BB



Nicholson Street indicative cross-section CC



Nicholson Street indicative cross-section DD

PRECINCT 2: FITZROY WEST

This precinct comprises lots with primary frontages to local streets, mostly towards east- west streets between Brunswick Street in the east and Nicholson Street to the west. There is a high frequency of intersections with limited subdivisions oriented east- west fronting Nicholson Street, Fitzroy Street and Spring Street at the southern part.

Preferred precinct character statement

Fitzroy West will continue to be defined by a diverse mix of heritage residential and industrial built forms in Mixed Use Zone, between Brunswick Street and Nicholson Street. Future development will respond to this mixed character by adopting low and mid rise infill forms that are carefully shaped by its heritage, subdivision and streetscape influences.

Areas for increased opportunity for contemporary mid-rise development along Nicholson Street and on larger allotments with limited heritage and residential sensitivity fronting Rose Street and the north-eastern part of Leicester Street, acknowledging recently completed and approved mid-rise developments.

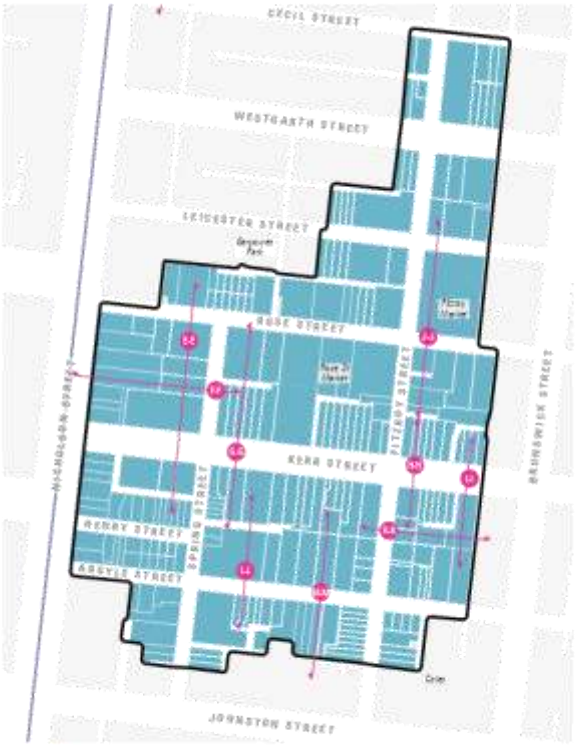
Infill development opportunities within the precinct will be recessive, adopting a 'street wall and setback' model to retain the prominence and diversity of the heritage frontages, as well as the open sky view when viewed from within the street corridor. New upper levels will turn the corner and transition to residential interfaces at the side and rear.

Future development in this precinct will continue to recognise the importance of junctions and corner sites for wayfinding and sense of place. New street walls and setback upper levels will respond to the prevailing heritage feature of the junction. Additionally, the junction of Fitzroy and Rose Streets play an important wayfinding role being at the intersection of two key pedestrian connections.

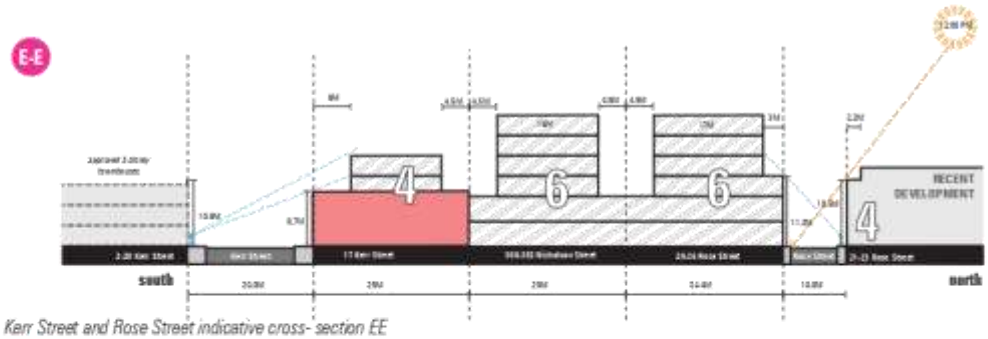
Westgarth Street looking west from within Fitzroy Street

Built Form Objectives

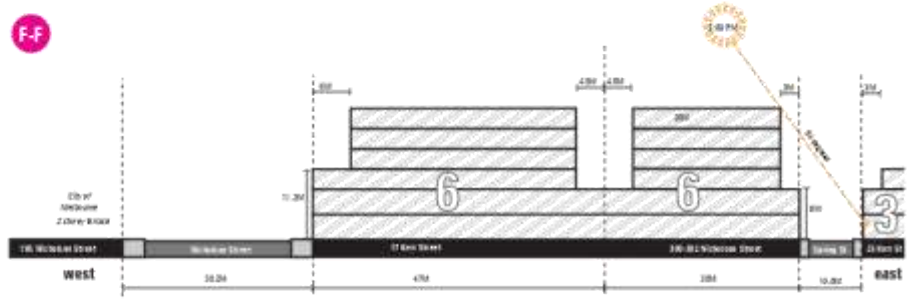
- To support modest development opportunity that respects the heritage values of the precinct.
- To support contemporary mid-rise development on large site with limited heritage and residential sensitivity.
- To retain the prevailing low-rise streetscape presentation.
- To ensure the heritage frontage remains the visually dominant element of built form and new development is visually recessive and does not dominate the streetscape.
- To encourage development that is made up of parts on large, non-contributory sites to reinforce the profile of urban blocks in the precinct.
- To retain existing built fabric on VHR sites.
- To support development that contributes to an active, high quality and pedestrian-friendly environment.
- To maintain solar access to footpaths on key pedestrian streets and green streets.
- To provide adequate transitions to residential interfaces.



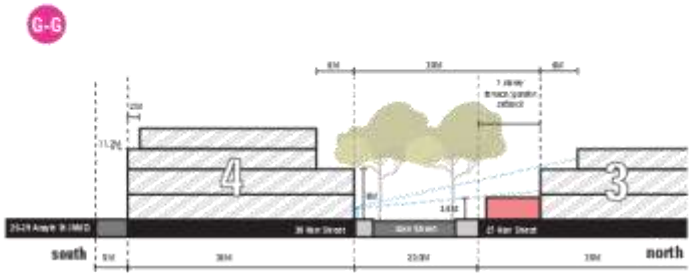
Precinct 2 Extent



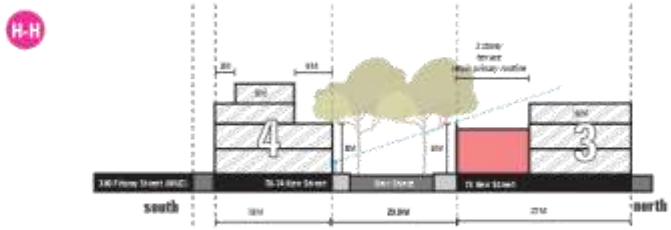
Kerr Street and Rose Street indicative cross- section EE



Nicholson Street and Spring Street indicative cross- section FF



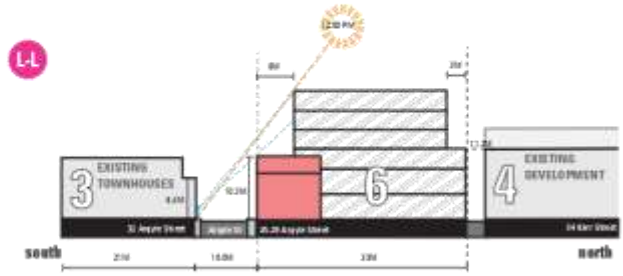
Kerr Street indicative cross- section GG



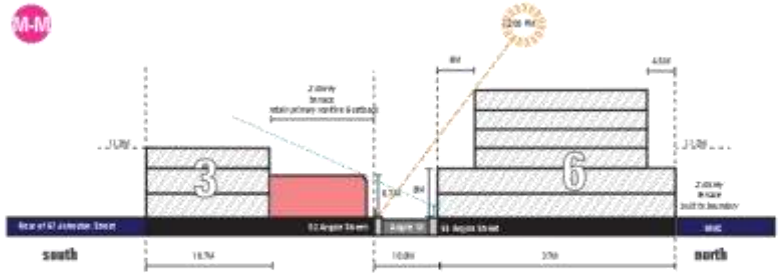
Kerr Street indicative cross- section HH

Guidelines

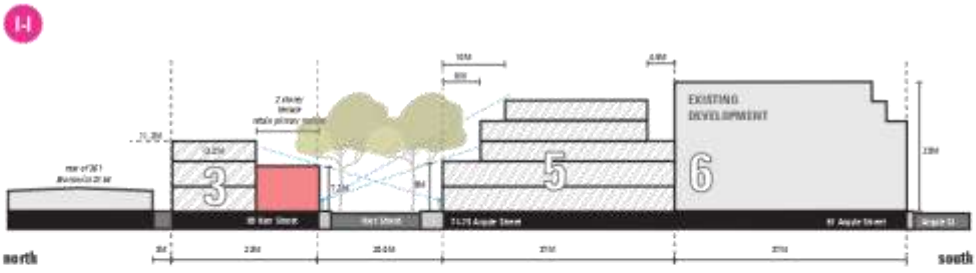
1. Ensure new street walls match the parapet height of adjoining heritage forms.
2. Avoid new single storey street wall.
3. Establish a clear distinction between street wall and rising form behind.
4. Encourage retention and repurposing of existing built form on VHR sites.
5. Ensure new development complements heritage architectural features (grain and rhythm).
6. Ensure new development on corner sites is designed in the round and 'turns the corner' to address all street frontages.
7. Ensure upper levels behind heritage street wall adopt a 'recessive' architectural language and material palette.
8. Ensure new development avoids the presentation of overly stepped or 'wedding-cake' presentation.
9. Ensure new development recognise heritage sensitivity along the Brunswick Street spine.
10. Ensure new development maintains solar access to:
    - The footpath on the south side of Westgarth Street and Kerr Street between 10am and 2pm at the equinox.
    - To footpath on the west side of Fitzroy Street at 10am at the equinox.
    - To footpath on the east side of Fitzroy Street at 2pm at the equinox.
    - For other streets within the study area, to level 1 (above ground level) between 10am and 2pm at the equinox (21 September).
11. Facilitate equitable development outcomes to adjacent sites through adequate building separation to side and rear boundaries.
12. Ensure exposed party walls to side boundaries are designed to be visually interesting.
13. Ensure servicing and car parking is provided from secondary side streets or rear laneways.
14. Ensure new development provides opportunities for improved passive surveillance to streets at ground and upper levels.



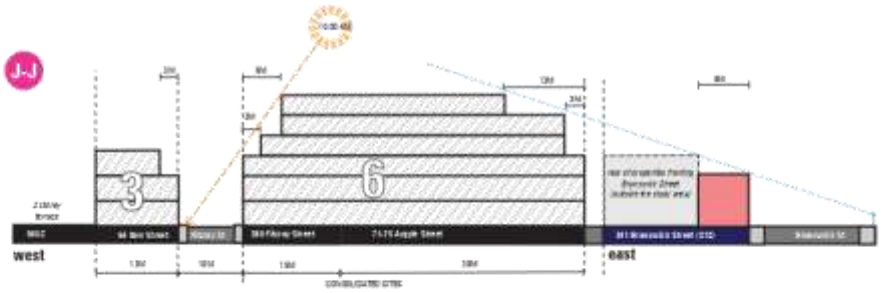
Argyle Street indicative cross-section LL



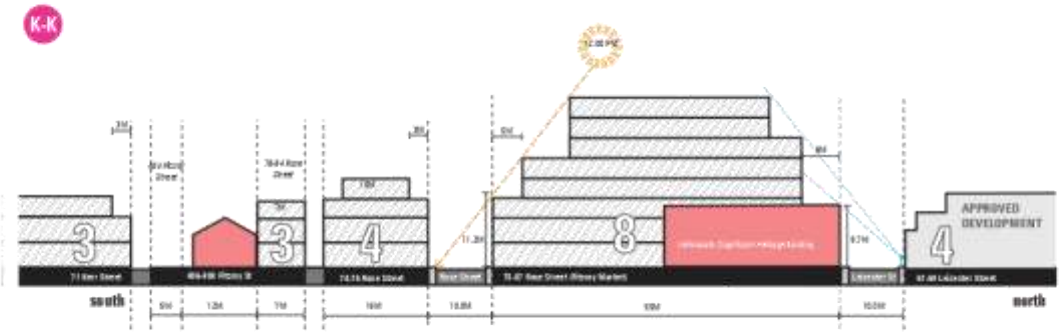
Argyle Street indicative cross-section MM



Kerr Street indicative cross- section II



Rose Street and Leicester Street indicative cross- section JJ



Fitzroy Street indicative cross- section KK

4.4 General Built Form Guidelines

Built Form Recommendations

A range of specific built form recommendations and design guidelines have been developed for all precincts.

These built form guidelines focus on the Fitzroy West Precinct, where future development is anticipated and design guidance is required.

Visually distinct additions and upper levels

Given the diverse character of Fitzroy West, new buildings or additions should be designed to have a visually distinctive architectural expression from the heritage element. This is in order to ensure that new form can be clearly 'read' and understood as a more recent component. It also encourages contemporary architectural responses which will contribute to the 'richness' and diversity of built form.

Lightweight materials, colours and finishes that contrast with the prevailing masonry forms are also encouraged to assist in the clear distinction between new and old, while also assist in visually recessing new forms.

Architectural Considerations

To street frontages, expansive blank walls should be avoided and where visible from within the public realm, any blank walls need to be visually divided into small elements through architectural treatments or artistic decoration to reduce visual mass.

Fenestration patterns and facade solid to void proportions need to reflect the prevailing streetscape rhythm and presentation.

New forms should 'fit' within the prevailing streetscape character. Avoid overly busy and complex architectural expressions.

New forms should also ensure exposed party walls to side boundaries are designed to be visually dynamic to minimise visual bulk.

Active and Semi Frontages

In Activity Centres and Mixed Use areas, buildings must provide sufficient activation at street level to foster 'life' on the street and provide opportunities to maximise safety via passive surveillance. Along the key movement corridors such as Rose Street, Leicester Street, Fitzroy Street and Nicholson Street, active ground frontages are encouraged.

Along local streets and mixed use areas, semi-active frontages are more appropriate. As these 'less active' frontages still maintain an appropriate level of passive surveillance, while also providing more privacy and seclusion to the inside of the building, befitting the nature of the use as a dwelling or office.

Direct pedestrian entries into ground floor uses is encouraged, particular on larger sites, with broad frontages.

Upper levels also provide opportunities for 'eyes on the street' and contribute to passive surveillance of the public realm. Windows and balconies that orientate towards the street (rather than to side boundaries) are encouraged.

Public Open Space provision

Public open space is an important element within urban areas, as is its spatial provision. In inner urban areas such as the Fitzroy West Precinct the provision of streets as extension of public space is important to the social health and well-being of a local community. There are presently no 'pocket parks', or open space within the study area. The potential for a permanent shared zone arrangement at Rose Street is being investigated and from an urba ndesign perspective, it is an appropriate response to the anticipated increase in pedestrian footfall and improvement to pedestrian amenity when footpath widening, or road closure may not be achievable.

Services and Vehicle access

Ensure servicing and car parking is provided from secondary side streets or rear laneways.

The consolidation of services into basement levels is highly encouraged to mitigate extent of inactive, blank walls to the public realm. Ensure provision of servicing and car parking do not dominate the street.

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BUILT FORM REVIEW:

ALEXANDRA PARADE

HERITAGE ANALYSIS & RECOMMENDATIONS

PREPARED FOR:	City of Yarra
DATE:	November 2020
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As is the case for 37.5% of Victoria, no Traditional Owners have been formally recognized for parts of the land included in the study area. The land to the north of Alexandra Parade, however, forms part of the traditional lands of the Wurundjeri People, who are represented by the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation.

This report is limited in its scope to consideration of post-contact cultural heritage and does not provide advice on any Aboriginal cultural heritage significance. Nonetheless, we acknowledge the Traditional Owners of the land at this place, including the Wurundjeri People, and pay our respects to their Elders past, present and emerging. For more information on the Wurundjeri People, please visit https://www.wurundjeri.com.au.

PROJECT TEAM

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Cover Image: *Alexandra Parade looking east towards the Clifton Hill Shot Tower from the intersection with Wellington Street*

GLOSSARY OF ABBREVIATIONS

Appendix 8	Incorporated Document 'City of Yarra Review of Heritage Overlay Areas 2007: Appendix 8 (revised May 2018)'
C1Z	Commercial 1 Zone
C2Z	Commercial 2 Zone
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
GRZ	General Residential Zone
HO	Heritage Overlay
MAC	Major Activity Centre
MUZ	Mixed Use Zone
NAC	Neighbourhood Activity Centre
NRZ	Neighbourhood Residential Zone
PPN	Planning Practice Note
VHR	Victorian Heritage Register

All photos taken by GJM Heritage in March 2020 unless otherwise stated.

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EXECUTIVE SUMMARY

Hansen Partnership, on behalf of the City of Yarra (Council), has prepared a Built Form Review of three precincts: Alexandra Parade, Victoria Parade and Fitzroy West. This forms part of a larger project that considers built form controls for commercial high streets and mixed use / commercial zoned precincts within Fitzroy, Collingwood and (part) Clifton Hill (Figure 1). The purpose of this Built Form Review work is to determine where and how new development can appropriately occur. The desired built form outcomes will be translated into Design and Development Overlay (DDO) controls for the study area.

This report specifically considers the Alexandra Parade Precinct (also referred to as the 'study area' in this report) which includes land within the southern part of Clifton Hill and the northern parts of Collingwood and Fitzroy. The heritage advice contained within this report will help ensure that the Built Form Review and the subsequent DDO controls appropriately respond to the heritage fabric and values within the study area.

This advice then considers the built form parameters that are required to ensure that the values of the heritage places within the Alexandra Parade Precinct are appropriately managed and protected, and that good heritage outcomes are being achieved for potential future new development or redevelopment on land subject to, or abutting, the Heritage Overlay. This includes a consideration of the impact of development on the Clifton Hill Shot Tower (VHR H0709), views of which are identified in the Landmarks and Tall Structures Policy at Clause 22.03 of the Yarra Planning Scheme.

Part II of this report provides an analysis of gaps, inconsistencies and inaccuracies in the current heritage controls within the study area and provides recommendations for addressing these issues. This has resulted in the recommendation to include two additional properties on the Heritage Overlay a Quonset Warehouse at 20 Reeves Street, Clifton Hill and the Gasometer Hotel, 484 Smith Street, Collingwood.

This Heritage Analysis and Recommendation Report is presented in three parts:

Part I: The Project and Planning Framework

Part I introduces the project, the methodology applied to the project and the planning framework in which the project is occurring.

Part II: Heritage Analysis

Part II contains a heritage analysis of the study area. It details the heritage qualities and values of the study area, identifies any gaps or issues in the existing heritage framework and provides recommendations for appropriately managing heritage places within the study area.

Part III: Built Form Recommendations

Part III contains specific built form recommendations to ensure heritage places and values are appropriately managed within a changing urban context. The specific recommendations are informed by modelling prepared by Hansen Partnership.

***Figure 1**: Brunswick and Smith Street Study Area*
Source: 'Figure 2: Brunswick & Smith Street Built Form Review - Precincts' from the Alexandra Parade Built Form Framework (Hansen Partnership, December 2020). The area in green denoted by the letter A is the Alexandra Parade Precinct subject of this report.

PART I: THE PROJECT AND PLANNING FRAMEWORK

1.0 INTRODUCTION

1.1 YARRA'S HIGH STREETS & BOULEVARDS

The City of Yarra is endowed with one of the largest and most highly intact collections of turn of the century 'High Streets' in the State of Victoria. These High Streets include the Major Activity Centres of Swan Street and Bridge Road in Richmond, Brunswick Street in Fitzroy, Smith Street straddling the suburbs of Fitzroy and Collingwood and Victoria Street, in Abbotsford and Richmond. They also include a number of Neighbourhood Activity Centres, including Gertrude Street in Fitzroy, Johnston Street in Fitzroy & Collingwood, Rathdowne Street and Nicholson Street in Carlton North, St Georges Road in Fitzroy North, and Queens Parade in Fitzroy North & Clifton Hill.

These High Streets contrast with the wide boulevards of Alexandra and Victoria Parade, which retain their wide median strips. Unlike the more typical commercial High Street, these boulevards do not exhibit a consistency of use or built form. Nonetheless, while the built form, character and heritage values of these boulevards differ greatly over their length, the pockets of heritage buildings warrant special consideration as does the interfaces to the generally low-scale residential heritage areas they directly abut. Like the historic High Streets, it is necessary to manage the tension between the desire to retain the heritage values of these areas and meet the growth objectives of the Yarra Planning Scheme.

1.2 BRIEF DESCRIPTION OF THE ALEXANDRA PARADE PRECINCT

Alexandra Parade is a major arterial road running east-west connecting to Princes Street at Nicholson Street and the Eastern Freeway at the Hoddle Street interchange. It has a 60m wide carriageway with three to four lanes of traffic either side of a wide (20m-25m) grassed median strip, with traffic running in both directions. The median is planted at the western end with a regular avenue of trees and less formal rows and groups of trees toward the east. Street trees are planted along the majority of the footpaths. The major north-south oriented roads (including Brunswick, Napier, George, Smith, Wellington and Gold streets) align across Alexandra Parade, but minor streets and block lengths differ between the northern and southern side of the boulevard.

Figure 2: Alexandra Parade precinct – outlined in red.
Source: Nearmap, 4 June 2020

The precinct extends along the north side of Alexandra Parade between Smith Street in the west and Hoddle Street in the east, with the exception of the Neighbourhood Residential Zoned (NRZ) properties addressing Alexander and Wellington streets and the parcel of land at 64 Alexandra Parade, Clifton Hill (which is subject to the site-specific Design and Development Overlay (DDO19)). The precinct extends to the north up the eastern side of Smith Street and both sides of Reeves and Hilton streets to the extent of Commercial 2 Zone (C2Z) land. The whole of the block bounded by Noone Street, Hoddle Street, Alexandra Parade and Alexander Street is included within the precinct including the Department of Health and Human Services (DHHS) low-rise housing estate. On the south side of Alexandra Parade the precinct extends one property deep between George Street in the west and Charlotte Street in the east.

The built form of the Alexandra Parade Precinct is highly varied, ranging from large industrial sites such as the former British United Shoes Machinery Co. Pty. Ltd. Factory (200 Alexandra Parade, Fitzroy [HO334]) at the western end of the precinct, the former Murray Co. Wool Works (457 Hoddle Street, Clifton Hill [HO89]), and the State heritage listed Clifton Hill Shot Tower at the eastern end of the precinct, to smaller commercial and factory buildings on Smith Street, and late nineteenth and early twentieth century hotels and single-storey terraced housing addressing Alexandra Parade. There is little visual cohesion within the precinct. The areas of land subject to the Heritage Overlay is limited to short runs of streetscape on Alexandra Parade and Smith Street or individual properties.

The Gasometer Hotel at 484 Smith Street was also considered as part of the Brunswick and Smith Street Built Form Review and an assessment of its heritage

values was undertaken as part of that project. The Gasometer Hotel is not currently included in the Heritage Overlay but was recommended for inclusion as an individual heritage place as part of the Brunswick and Smith Street Built Form Review (see also Appendix II for the (draft) citation for the Gasometer Hotel).

1.3 BRIEF HISTORY OF ALEXANDRA PARADE

This historical summary is based on the City of Yarra Heritage Review Thematic History (Allom Lovell & Associates, 1998) with additional sources as cited.

Alexandra Parade (first called Darebin, then Reilly Street) was evident on both James Kearney's 1855 map of Melbourne and its suburbs, and Clement Hodgkinson's 1858 map of East Collingwood, extending from Nicholson Street in the west to the Yarra River in the east, and marking the northern boundary of the early suburbs of Fitzroy (originally called Newtown) and Collingwood. By the late 1850s, Alexandra Parade had undergone very little development between Smith and Hoddle streets, with only a group of slaughter houses and approximately six buildings - presumably residences - located on the south side, as evident on Proeschel's c1855 map of Collingwood and Hodgkinson's 1858 map of East Collingwood. In 1859, an open drain was constructed along what was then known as Reilly Street (now under the median strip of Alexandra Parade) to drain the crown land in Clifton Hill. This was, however, an immediate failure, overflowing into the Collingwood Flat the first winter after it was constructed. The drain continued to be a health hazard and was referred to as 'the sickly Reilly Street drain' (Garryowen; cited in Lovell 1998:69) until it was enclosed in sections in the early 1900s (*Age*, 5 Dec 1905:6; 16 Jan 1906:6).

An early development along Alexandra Parade was the Collingwood, Fitzroy and District Gas and Coke Company gasworks, established on the north-west corner of Smith and Reilly Street in 1861. From the late-Victorian period onwards, industrial sites consolidated along the route of the Reilly Street drain. Buildings such as the Clifton Hill Shot Tower (1882; 94 Alexandra Pde, Clifton Hill) and Murray and Co. Wool Works (1918; 457 Hoddle Street, Clifton Hill) remain as evidence of this development. The 1882 Clifton Hill Shot Tower has long been a dominant landmark in the area, and is the earliest and tallest of the two remaining shot towers in Victoria (VHD).

Prominent corner sites along Alexandra Parade were occupied by hotels from the Victorian period onwards. Within the study area, these included the Gasometer Hotel (c1859-60; 484 Smith Street, Collingwood) and Fox's Hotel (351 Wellington Street, Collingwood), which was first built in 1871 and renamed the Tower Hotel (Figure 3) after the nearby Clifton Hill Shot Tower in 1882 (the hotel was substantially remodelled during the Interwar period) (Holmes, 2015). Residential development increased along, and within the vicinity of, Alexandra Parade in the late-Victorian and Edwardian periods. In 1878 Fitzroy Council changed the name of Reilly Street (between Nicholson and Smith streets) to Alexandra Parade (*Mercury and Weekly Courier*, 28 Sep 1878:2). While Collingwood Council voted to change the name to Alexandra Parade East in 1908 (*Age*, 23 Sep 1908:11).

Light industrial development became more prevalent in the precinct during the Interwar and Postwar periods. The larger industrial buildings were often praised for their 'fine' and 'modern' appearance and for the facilities they could offer in terms

of improved working conditions. Evidence of this was the British United Shoe Machinery Co factory (1932; 200 Alexandra Parade, Fitzroy) (Figure 4).

Figure 3: *(left) The Tower Hotel (built 1871 as Fox's Hotel; remodelled during the Interwar period) at 351 Wellington Street, Collingwood. Photo dated c1886-c1898). ('Contributory' within HO321)*
Source: Royal Historical Society of Victoria, Object number GN-GN-1018

Figure 4: *The British United Shoe Machinery Co factory at 200 Alexandra Parade, Fitzroy, in 1948 ('Individually Significant' within HO334)*
Source: Picture Victoria, ID: 15232

From the 1960s onwards, a mix of residential and large industrial and commercial developments have been established along this part of Alexandra Parade. In the 1970s Alexandra Parade was widened as part of the construction of the Eastern Freeway to the east, which established it as a major east-west route.

Sources:

Allom Lovell & Associates (1998), City of Yarra Heritage Review, Thematic History.

Hodgkinson, Clement, Noone, John, and Wilkinson, John, (1858), *Plan shewing the streets and buildings in existence in East Collingwood on January 1st 1858 : with schedule of heights of bench-marks above low water datum at Queen's wharf* [cartographic material]. Printed by De Gruchy & Leigh [Melbourne].

Holmes, Anne (Dec 2015) 'Fordes at the Fox', at Collingwood Historical Society Inc, <https://collingwoodhs.org.au/fordes-at-the-fox/>, accessed 10 June 2020.

Kearney, James (draughtsman), Brown, James D. and Tulloch, David (engravers) (1855), *Melbourne and its suburbs* [cartographic material].

Mercury and Weekly Courier [Vic.].

Picture Victoria.

Proeschel, F. (c1855), *Map of Collingwood, Showing the Western part (of Fitzroy ward) as it will be in a very short time, according to the Collingwood improvement act, and the Eastern part as it is, with indication (by dotted lines) of a few alterations which if adopted would greatly improve its thoroughfare* [cartographic material]. Campbell & Fergusson, Lithographers [Melbourne].

Royal Historical Society of Victoria, online picture collection.

The Age.

Victorian Heritage Database (VHD), Heritage Victoria's citation for 'Shot Tower, 94 Alexandra Parade Clifton Hill, Yarra City', <https://vhd.heritagecouncil.vic.gov.au/places/295>, accessed 10 June 2020.

1.2 SCOPE OF THE HERITAGE ANALYSIS & RECOMMENDATIONS REPORT

GJM Heritage has been commissioned to provide a detailed analysis of the heritage considerations for the Brunswick and Smith Street Built Form Review project area and to detail recommendations for the future management of these areas in the context of potential new development. This report considers the Alexandra Parade Precinct and has been prepared simultaneously with those considering the Victoria Parade and Fitzroy West Mixed Use precincts.

The following precincts have previously been considered in the *Brunswick and Smith Street Built Form Review*, GJM Heritage, 25 November 2019:

- Brunswick Street Activity Centre Spine
- Town Hall Mixed Use Precinct
- Smith Street Activity Centre Spine
- Johnston Street Activity Centre Spine
- Fitzroy East Mixed Use Precinct.

The proposed Gertrude Street Precinct and the MUZ area south of Gertrude Street between Young and Little Napier Streets was reviewed through the *Gertrude Street Built Form Framework: Heritage Analysis & Recommendations,* GJM Heritage, 9 December 2019.

The Collingwood Mixed Use Precinct was considered as part of a separate study: *Collingwood Mixed Use Pocket Heritage Analysis & Recommendations*, GJM Heritage, 6 June 2018.

The Alexandra Parade Precinct is located in close proximity to the area considered as part of the *Queens Parade Built Form Heritage Analysis & Recommendations*, GJM Heritage, 11 December 2017. That report, along with the *Queens Parade Built Form Review*, (Hansen Partnership, 15 December 2017) and subsequent modelling by Ethos Urban, informed the preparation of DDO16 and DDO20 applied to Queens Parade through Amendments C262yara and C241yara respectively. Yarra Amendment C231 Part 1 was gazetted on 1 October 2020. It replaced DDO16 and DDO20, which included interim controls, with a new DDO16 that introduced permanent controls, and applied the Heritage Overlay to various sites within the Queens Parade Neighbourhood Activity Centre and modified building gradings amongst other things. Amendment C231yara Part 3 was also gazetted on 1 October 2020 and introduced permanent built form controls to 141-167 Queens Parade, Clifton Hill by replacing DDO20 with the new DDO16.

The purpose of our advice as part of this project is to ensure that any DDO controls arising from the Built Form Review take proper account of the heritage values of the precincts and individual buildings within the study area, in order to ensure appropriate weight is given to heritage when considering new development.

The analysis within this report builds on previous built form reviews and heritage analysis work conducted for the City of Yarra, and considers the parameters necessary to appropriately manage increased commercial and residential development within the Alexandra Parade Precinct. Of particular relevance to this precinct is its role in protecting the key views to the Clifton Hill Shot Tower which is

included on the Victorian Heritage Register (VHR) and is identified as a valued landmark within the City of Yarra at Clause 22.03.

1.3 METHODOLOGY

The key background documents on which the heritage analysis is based are:

- Yarra Planning Scheme Heritage Overlay Map 2HO
- Relevant Statements of Significance for heritage places and precincts within the study area and associated heritage studies
- Incorporated Document 'City of Yarra Review of Heritage Overlay Areas 2007: Appendix 8 (revised May 2018)' (Appendix 8)
- City of Yarra Heritage Grading Maps
- 'Review & Development of the City of Yarra Landmarks Policy – Landmarks & Views Assessment' prepared by Ethos Urban for the City of Yarra, October 2019.

The above documents have been reviewed in the context of the following clauses of the Yarra Planning Scheme and the relevant Planning Practice Notes (PPNs) published by the Department of Environment, Land, Water and Planning (DELWP):

- The relevant provisions of the Yarra Planning Scheme, in particular, are:
  - Clause 15.03-1S 'Heritage conservation'
  - Clause 21.05-1 'Heritage'
  - Clause 22.02 'Development Guidelines for Sites Subject to the Heritage Overlay'
  - Clause 22.03 'Landmarks and Tall Structures'
  - Clause 22.10 'Built Form and Design Policy'
  - Clause 43.01 'Heritage Overlay'
  - Clause 43.01 'Schedule to the Heritage Overlay'
  - Clause 71.02-3 'Integrated Decision Making'
- PPN 1: *Applying the Heritage Overlay* (August 2018) (PPN1)
- PPN 59: *The role of mandatory provisions in the planning schemes* (September 2018) (PPN59)
- PPN 60: *Height and setback controls for activity centres* (September 2018) (PPN60).

We note that the Minister for Planning has authorised the preparation and exhibition of Amendment C269yara to introduce a new Municipal Planning Strategy, local policies and supporting documents into the Yarra Planning Scheme. This amendment has gone on exhibition but is at an early stage of the amendment process, therefore the advice provided in this report has been informed by the relevant existing Local Planning Policy, in particular clauses 22.02, 22.03 and 22.10.

The following Planning Panels Victoria (Panel) reports are relevant to the implementation of the Built Form Review, particularly as many consider the appropriateness of DDOs (containing both mandatory and discretionary provisions) within Activity Centres (or in the case of Melbourne Amendment C240, the Capital City Zone) that are also subject, in part, to the Heritage Overlay:

- Boroondara C108 'Neighbourhood Centres and Commercial Corridors' (26 February 2014)
- Moreland Planning Scheme Amendment C134 'Brunswick Activity Centre' (15 May 2015)
- Melbourne Planning Scheme Amendment C240 'Bourke Hill' (4 May 2015)
- Bayside Planning Scheme Amendments C113, C114 and C115 'Mandatory provisions for the Sandringham Village, Bay Street and Church Street Activity Centres' (14 January 2015)
- Whitehorse Planning Scheme Amendment C175 'Box Hill Metropolitan Activity Centre' (6 October 2017).
- Stonnington Planning Scheme Amendment C223 'Glenferrie Road and High Street Activity Centre' (15 December 2017)
- Darebin Planning Scheme Amendment C161 'Fairfield Village' (3 December 2018)
- Yarra Planning Scheme Amendment C220 'Johnston Street Built Form Controls' (22 February 2019)
- Melbourne Planning Scheme Amendment C308 'Central Melbourne Urban Design' (16 May 2019)
- Melbourne Planning Scheme Amendment C258 'Heritage Policies Review' (21 May 2019)
- Yarra Planning Scheme Amendment C231 'Queens Parade Built Form Review' (31 October 2019)
- Yarra Planning Scheme Amendment C191 'Swan Street Built Activity Centre' (15 October 2020).

The following reports have also informed this study:

- 'Review & Development of the City of Yarra Landmarks Policy – Landmarks & Views Assessment' prepared by Ethos Urban for the City of Yarra, October 2019.
- 'Fitzroy & Collingwood Built Form Review Stage 2: Alexandra Parade Built Form Framework', Hansen Partner, April 2020.
- Previous heritage built form reports and analysis prepared by GJM Heritage for Brunswick and Smith Street and Queens Parade study areas.

We have approached the preparation of our heritage analysis as follows:

1. Completion of a desktop review of the above listed documents, heritage mapping and grading information, and the Statements of Significance for heritage places within the study area, including those places included in the VHR. The extent of the Heritage Overlays were cross-checked against Google Streetview and VicPlan. This preliminary review familiarised the project team with the heritage fabric of the study area prior to fieldwork being undertaken.
2. Completion of fieldwork by Jim Gard'ner. All buildings and structures within the study area were inspected from the public realm with particular attention paid to the presentation of heritage buildings to the public realm

(principally the street frontage). The rear and side interfaces to the neighbouring residential areas subject to the Heritage Overlay were also considered, where relevant. The purpose of the fieldwork was to:

- Review the suitability of the extent of the existing Heritage Overlays and to identify if gaps or anomalies existed.
- Review the suitability of the existing Statements of Significance for heritage places against the extant heritage fabric and to identify where the Statements required updating for the purposes of properly considering built form recommendations.
- Review the extant heritage fabric against the heritage gradings contained within Appendix 8 and the Yarra Heritage Grading Map to identify any inconsistencies and inaccuracies.
- Review the heritage buildings and streetscapes within the study area to identify the architectural and streetscape heritage features (e.g. parapets, roof forms, view lines, corner sites) that are relevant to a consideration of built form recommendations.

3. Participation in a workshop with Council and Hansen Partnership. The workshop:

   - Reviewed the proposed 'built form precincts' within the study area, characterised by existing built form characteristics.
   - Identified the desired future built form character of the precincts against heritage analysis and State and local planning policy drivers.
   - Reviewed the key views of landmarks identified in Clause 22.03 – Landmarks and Tall Structures, in particular the Clifton Hill Shot Tower.
   - Identified local landmarks within each streetscape or precinct.
   - Tested built form parameters for new development against the existing heritage fabric utilising both cross-sectional drawings, with sight-lines taken at natural eye level (1.6m) on the public footpath, and 3D modelling prepared by Hansen Partnership. Views were only considered from public streets; laneway and private realm views were not assessed.

4. Finalisation of heritage recommendations for new built form parameters having considered the above.

2.0 ANALYSIS OF THE PLANNING CONTEXT

2.1 ACTIVITY CENTRE PLANNING AND HERITAGE

The *Planning & Environment Act 1987* and the Victoria Planning Provisions (VPPs) requires planning and responsible authorities to take a balanced approach to strategic and statutory planning functions that consider potentially competing objectives in an integrated manner to deliver a net community benefit for current and future generations.

The objectives of planning in Victoria as set out in Section 4(1) of the Planning and Environment Act are:

- *To provide for the fair, orderly, economic and sustainable use and development of land.*
- *To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*
- *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*
- *To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*
- *To protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community.*
- *To facilitate development in accordance with the objectives set out in the points above.*
- *To facilitate the provision of affordable housing in Victoria.*
- *To balance the present and future interests of all Victorians.*

Clause 71.02-3 of the VPP addresses 'integrated decision making', and states:

> *Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social wellbeing affected by land use and development.*
>
> *Planning and responsible authorities should endeavour to integrate the range of panning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.*
>
> *Planning authorities should identify the potential for regional impacts in their decision making and coordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.*

Activity Centres that are also subject to Heritage Overlay controls, such as parts of the Alexandra Parade Precinct, are an example of where the tension between competing planning objectives must be resolved in a balanced way. The Alexandra Parade Precinct has excellent public transport connections, and is in close proximity to vibrant retail, commercial and hospitality centres. The precinct also includes a number of sites of various sizes that can accommodate new, larger scale development without adversely affecting the heritage values of surrounding heritage places. In order to balance the demand for more intensive development with the management of heritage values embodied in buildings and precincts, it is considered necessary that any DDO – and the background work that underpins it – specifically includes heritage considerations.

Amendment C269 proposes to introduce Clause 11.03-1L to the Yarra Planning Scheme which provides local policy in relation to Major, Neighbourhood and Local Activity Centres and designates the majority of the southern side of Alexandra Parade as a Major Activity Centre (MAC) (Figure 5).

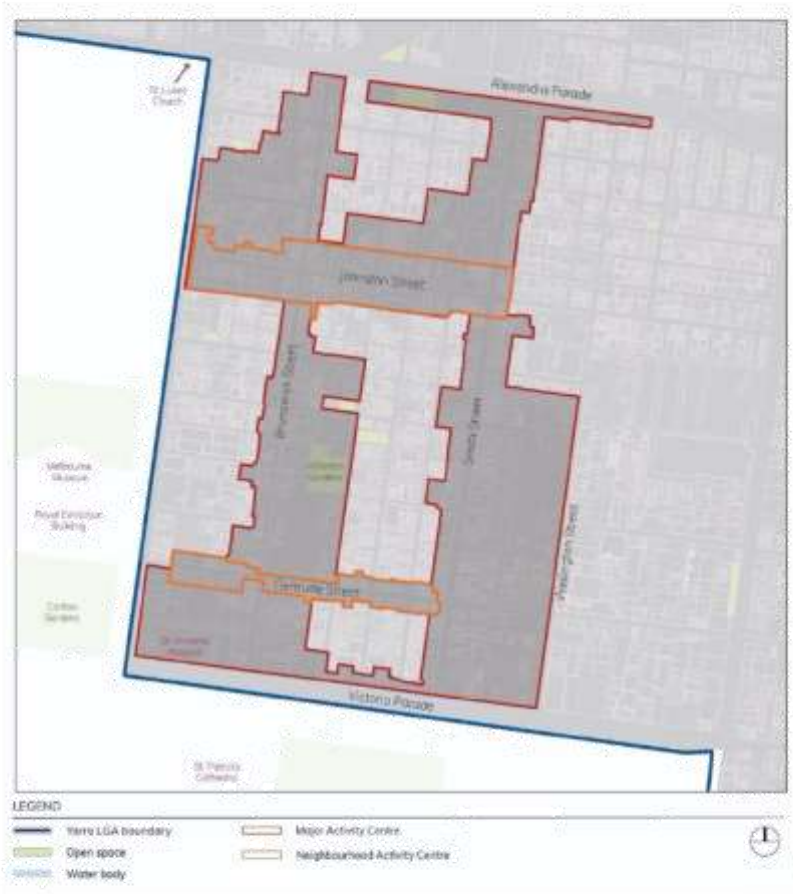

Figure 5. *Major and Neighbourhood Activity Centres in Fitzroy (Council-endorsed version of Clause 11.03-1L)*

2.2 YARRA PLANNING SCHEME – HERITAGE PROVISIONS

Council has well-established heritage provisions within its planning scheme at Clauses 21.05-1 and 22.02. Also of relevance to the protection of the heritage values of the study area is Clause 22.03, which includes policy to protect the visual prominence of landmarks visible from within the study area, and Clause 22-10 which includes policy for new development abutting land within the Heritage Overlay.

2.2.1 Heritage Policy

The relevant objective within Clause 21.05-1 'Heritage' of the Municipal Strategic Statement (MSS) is *Objective 14: To protect and enhance Yarra's heritage places.* The strategies to implement this objective are:

- *Strategy 14.1 - Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.*
- *Strategy 14.2 - Support the restoration of heritage places.*
- *Strategy 14.3 - Protect the heritage skyline of heritage precincts.*
- *Strategy 14.4 - Protect the subdivision pattern within heritage places.*
- Strategy 14.5 - *Protect the significant landscape and heritage within streets, parks, gardens, waterways or other open spaces*
- *Strategy 14.6 - Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*
- *Strategy 14.7 Protect sites of significance to Aboriginal people.*
- *Strategy 14.8 Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02.*
- *Strategy 14.9 Apply the Landmarks and Tall Structures policy at clause 22.03.*

Objective 14 and its associated strategies are considered to be generally compatible with appropriately sited and scaled higher-density development within the Alexandra Parade Precinct where it is subject to the Heritage Overlay. Strategy 14.3 to 'Protect the heritage skyline of heritage precincts' would not be achieved unless new upper-level development was to be of such low scale that it was fully concealed when viewed from the opposite side of the street as defined by the sightline tests described in Figures 2 and 3 of Clause 22.02. Avoiding any new visible built form above existing buildings within the Heritage Overlay - although achieving the 'best' heritage outcome - would not enable a level of development that may reasonably be expected to be achieved within this MAC, nor meet other strategic directions of the Yarra Planning Scheme. A balance therefore needs to be struck between achieving the outcome sought by Strategy 14.3 and meeting the development objectives of the City of Yarra. An acceptable heritage outcome would be one where, although new built fabric is visible above the parapets, rooflines or chimneys of these buildings, the development is of a scale, setback and massing such that it retains the primacy of the heritage streetscape and avoids visually dominating the existing buildings.

Clause 22.02 'Development Guidelines for Sites Subject to the Heritage Overlay' provides detailed guidance for the development of places within the Heritage Overlay, including demolition. The relevant objectives of Clause 22.02 are:

- *To conserve Yarra's natural and cultural heritage.*
- *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
- *To retain significant view lines to, and vistas of, heritage places.*
- *To preserve the scale and pattern of streetscapes in heritage places.*
- *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
- *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
- *To ensure that additions and new works to a heritage place respect the significance of the place.*
- *To encourage the retention of 'individually significant' and 'contributory' heritage places.*
- *To protect archaeological sites of cultural heritage significance.*

Again, these objectives do not preclude higher-density development within the Alexandra Parade Precinct, with the possible exception of '*To preserve the scale … of streetscapes in heritage places'*.

The demolition policy provided at Clause 22.02-5.1 encourages the retention of 'individually significant' and 'contributory' buildings within a heritage precinct. Removal of part of a heritage place or a contributory element is contemplated if (in general terms) it can be demonstrated that the removal of the part will not adversely affect the significance of the building, or, for a contributory building, the part is not visible from the street, abutting a park or public open space.

With the exception of those heritage places included on the VHR – and therefore regulated under the *Heritage Act 2017* – the significance of the heritage buildings and precincts within the study area lies primarily in fabric visible from the public realm. Therefore, in most circumstances, the heritage controls within the Yarra Planning Scheme effectively limits the control of heritage fabric within the study area to that which is visible from the street, including primary building facades, rear laneway views (where they exist) and visible roof and chimney elements.

In relation to 'New Development, Alterations and Additions', Clause 22.02-5.7.1 sets out the following policy:

General

Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:

- *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*

- *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
- *Be visually recessive and not dominate the heritage place.*
- *Be distinguishable from the original historic fabric.*
- *Not remove, cover, damage or change original historic fabric.*
- *Not obscure views of principle façades.*
- *Consider the architectural integrity and context of the heritage place or contributory element.*

Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.

Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.

Minimise the visibility of new additions by:

- *Locating ground level additions and any higher elements towards the rear of the site.*
- *Encouraging ground level additions to contributory buildings to be sited within the 'envelope' created by projected sight lines (see Figure 1).*
- *Encouraging upper level additions to heritage places to be sited within the 'envelope' created by projected sight lines (for Contributory buildings refer to Figure 2 and for Individually significant buildings refer to Figure 3).*
- *Encouraging additions to individually significant places to, as far as possible, be concealed by existing heritage fabric when viewed from the front street and to read as secondary elements when viewed from any other adjoining street.*

Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.

The policy for full or partial concealment of rear additions to residential buildings as described in Figures 2 and 3 of the General Policy at Clause 22.02 is modified by the Specific Requirements at Clause 22.02-5.7.2 that applies to corner sites and sites with dual frontages, and industrial, commercial and retail heritage places:

Corner Sites and Sites with Dual Frontages

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

Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection.

...

Industrial, Commercial and Retail Heritage Place or Contributory Elements

Encourage new upper level additions and works to:

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

The specific provisions prevail over the general policy where there is a conflict or inconsistency. This establishes an expectation that new development behind industrial, commercial and retail buildings within the Heritage Overlay is not going to be fully or substantially concealed from public realm views. In addition, it should be noted that Alexandra Parade, being a boulevard with multi-lane carriageways and a broad median strip, is 60m wide (building line to building line) where the residential examples shown in Figures 2 and 3 of Clause 22.02-5.7.1 show a sightline test from across an approx. 10m wide residential street. In effect, the wider the street, the more visible a new rear development will be.

Although a greater level of concealment would generally provide a better heritage outcome, this specific sightline-based guidance in the heritage policy is designed to preserve and enhance the character and appearance of predominantly one and two-storey dwellings within more typical narrow residential streets and is not readily applied to the circumstances found within the Alexandra Parade Precinct.

It is also considered that the policy at 22.02-5.7.1 to 'Discourage elements which … are not contemporary with the era of the building such as … reflective glass, glass balustrades and pedestrian entrance canopies' may not achieve an appropriate urban design and architectural outcome within a commercial and industrial setting such as that present at the Alexandra Parade Precinct. In such areas, a 'contrasting' or 'interpretative' design approach for new taller development above the heritage building is likely to be more recessive than a 'respectful' or 'historicist' one that would lead to the new additions inappropriately mimicking the historic form and potentially being more visually intrusive.

2.2.2 Landmarks and Tall Structures

Clause 22.03 – 'Landmarks and Tall Structures' identifies a number of landmark buildings and advertising signs to which views should be protected and provides the following policies:

- *Maintain the prominence of Yarra's valued landmark signs.*
- *Protect views to the silhouette and profile of Yarra's valued landmarks to ensure they remain as the principal built form reference.*
- *Ensure the profile and silhouette of new tall structures adds to the interest of Yarra's urban form and skyline.*

Of particular relevance to Alexandra Parade are the views of the Clifton Hill Shot Tower.

As a prominent feature of Alexandra Avenue, multiple views are afforded of the shot tower. This includes close-range views of the tower, and dynamic views which can be obtained while moving along Alexandra Avenue, generally between Queens Parade and the Eastern Freeway, and from Punt Road.

There are also numerous glimpses of the tower from surrounding streets and open spaces.

To retain the visual prominence of the structure, it is recommended that 'Primary' views include visibility of at least a third of the height of the structure.

***Figure 6:** Diagram of viewsheds to the Clifton Hill Shot Tower.*

Note: viewpoints 1, 2 and 3 are identified as 'Primary' while 4 and 5 are identified as 'Secondary'.

(from 'Landmarks and Views Assessment' page 24, October 2019, prepared by Ethos Urban).

VIEW 1

VIEW 2

VIEW 3

Figure 7: *'Primary' Views 1, 2 and 3 to the Clifton Hill Shot Tower.*

(from 'Landmarks and Views Assessment' page 24, October 2019, prepared by Ethos Urban).

VIEW 4

VIEW 5

Figure 8: *'Secondary' Views 4 and 3 to the Clifton Hill Shot Tower.*

(from 'Landmarks and Views Assessment' page 24, October 2019, prepared by Ethos Urban).

While the Ethos Urban analysis only identified a limited number of 'primary' and 'secondary' view points, there are additional distant and proximate views of the Clifton Hill Shot Tower accessible to motor vehicle users from the north carriageway and to pedestrians from the southern footpath of Alexandra Parade.

2.2.3 Heritage Overlay

The head heritage provision of the VPP, Clause 43.01 'Heritage Overlay', has the following purpose:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*

- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

Clause 43.01-8 sets out 'Decision Guidelines' – in addition to those included in Clause 65 – that the Responsible Authority must consider before determining a permit application. These are:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.*
- *Any applicable heritage design guideline specified in the schedule to this overlay*
- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
- *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed subdivision will adversely affect the significance of the heritage place.*
- *Whether the proposed subdivision may result in development which will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the lopping or development will adversely affect the health, appearance or significance of the tree.*
- *Whether the location, style, size, colour and materials of the proposed solar energy facility will adversely affect the significance, character or appearance of the heritage place.*

While some of these considerations are not obviously consistent with intensification of development associated with heritage buildings, the first purpose of 43.01 and the first decision guideline encompasses the whole Municipal Planning Strategy and the Planning Policy Framework (integrated decision-making). Therefore, a balance is to be struck by the Responsible Authority between achieving the objectives of the Heritage Overlay and meeting the objectives of other parts of the VPPs, including Activity Centre policy and commercial zoning. There is established precedent for

new rear development to be accommodated behind heritage buildings in commercial precincts throughout inner Melbourne without substantially compromising the identified heritage values of these heritage places.

3.0 HERITAGE IN DESIGN AND DEVELOPMENT OVERLAYS – PANEL FINDINGS

Planning Panels Victoria has considered a number of Planning Scheme Amendments that are of particular relevance to this project: Bayside Amendments C113, C114 and C115, Boroondara C108, Darebin Amendment C161, Moreland Amendment C134, Melbourne Amendment C240, Stonnington Amendment C223, Whitehorse Amendment C175 and Yarra Amendments C220, C231 and C191.

Panels for these Amendments considered the appropriateness of mandatory controls in the context of PPN59 and, in their recommendations, provided guidance on which circumstances mandatory controls should be applied. In response to submissions, they also considered the issue of whether or not the DDO control should include objectives to protect heritage or whether this should be the sole domain of the Heritage Overlay provisions. In addition to these Panel reports, Amendment C123 to the Banyule Planning Scheme, approved via ministerial intervention, provides further instruction as to the use and role of mandatory controls.

These reports also provide useful guidance on the form and wording of DDO controls.

In summary, Panel has concluded that:

- The Heritage Overlay identifies what is of heritage significance within an Activity Centre.
- Heritage is an appropriate issue for DDOs to provide guidance on to inform future development.
- Mandatory controls should be used only in exceptional circumstances and their application should be guided by PPN59 and PPN60.
- Formulae defining the proportion of new built form that can be viewed above the street wall may be an appropriate mechanism for informing the design and massing of new built form.

In this project, the approach taken in the formulation of the built form controls to manage development affecting heritage places is to complement existing policy. Clause 22.02 - 'Development Guidelines for Sites Subject to the Heritage Overlay' and relevant parts of Clause 22.10 – 'Built Form and Design Policy' have been taken as the starting point for the development of these complementary controls and policy.

Where existing policy is considered to be satisfactory, no additional policy has been recommended. However, specific policy has been recommended where it is considered necessary to provide guidance to recognise the current role of the Alexandra Parade Precinct as a major boulevard and to enable its future development while protecting its heritage values.

A discussion of the most relevant of the Panel reports is provided below, and at Section 3.9 the recommendations of each Panel are summarised with comment on the implications of the outcome.

3.1 YARRA PLANNING SCHEME AMENDMENT C231

GJM Heritage prepared the Queens Parade Built Form Heritage Analysis and Recommendations (11 December 2017) which informed C231yara. C231yara applied built form controls in the form of DDOs to Queens Parade (Fitzroy North and Clifton Hill) and amended Heritage Overlay controls within the study area. Precinct 4 within DDO20 covers the commercial shopping strip that forms part of the Queens Parade Neighbourhood Activity Centre. Queens Parade, as a 60m wide boulevard, is of a similar width to Alexandra Parade, however the built form of each differs considerably. Whereas the heritage places within the Alexandra Parade Precinct are generally isolated and do not form a cohesive streetscape, Queens Parade has a highly consistent commercial strip with traditional two-storey shop/residence built form of high architectural quality.

Of relevance to the Alexandra Parade Precinct, the Panel for Amendment C231 found that the strategic work undertaken in support of the Amendment was strong and that it assisted in justifying the majority of the built form parameters recommended in the DDOs, particularly with respect to mandatory controls. At p29 of the Panel Report, the Panel noted that:

> *Exceptional circumstances exist for the application of mandatory controls for development as the QPAC (Queens Parade Activity Centre) includes a number of significant and contributory heritage places and heritage fabric set within a consistent streetscape form.*

The Panel recognised that the wider, boulevard context would lead to a high visibility of upper-level development, which in turn warranted the application of height limits, and linked the use of mandatory (instead of preferred) controls to the consistency of the heritage streetscape.

The Panel supported the mandatory upper-level setback of 8m within the Council preferred DDO and the combination of mandatory and preferred height controls where this provided certainty where distinctive heritage fabric warranted greater protection. It also recognised that an Activity Centre with diverse built form can have areas of little change where growth can be accommodated elsewhere within the Centre. Further, the Panel agreed that it was appropriate for the proposed mandatory built form controls within DDO16 to protect the key views of local landmarks and those identified in Clause 22.03.

3.2 YARRA PLANNING SCHEME AMENDMENT C220

Johnston Street in Collingwood and the western part of Abbotsford (west of the railway viaduct) is a highly intact, predominantly Victorian/early-Edwardian era streetscape covered by the Heritage Overlay. C220yara introduced DDO controls along Johnston Street.

Of note, the Panel stated:

> *In urban design terms, the 6 metre setback will retain the 'human scale' of Johnston Street, secure the distinction between the street wall and upper levels and will reduce the potential for overshadowing and adverse wind conditions.*

...

The Panel does not agree that less significant sections [of Johnston Street] warrant a different treatment. Less significant areas equally deserve to exhibit the overall urban design outcome: a strong street wall with a distinct setback to the mid level form.

To achieve these objectives, the Panel recommended that a building envelope requirement be established that, rather than being based on a sightline test from the opposite side of the street new, required new development to be within a 45° 'angular plane' drawn from the maximum street wall height. In combination with upper-level front setbacks and maximum building heights, the angular plane creates a further upper-level setback consistent with the application of the policy objective at Clause 22.02-5.7.1 that each higher element to industrial, commercial and retail buildings should be set further back from the lower heritage built form.

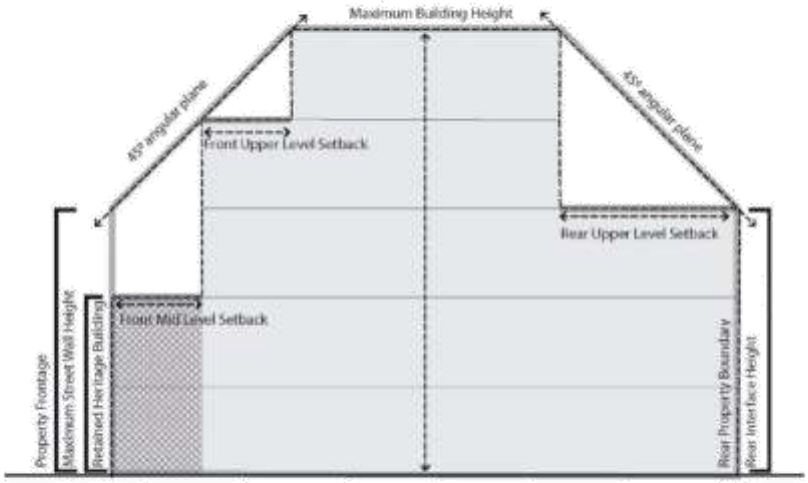

***Figure 9**: Building envelope requirement – Heritage Building (Figure 1 in Schedule 15 to Clause 43.02 Design and Development Overlay).*

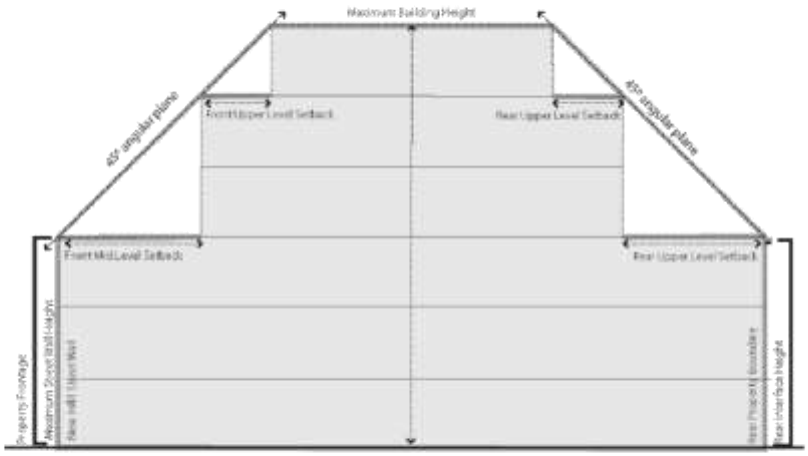

Figure 10: Building envelope requirement – Infill Building (Figure 2 in Schedule 15 to Clause 43.02 Design and Development Overlay).

3.3 YARRA AMENDMENT C191

Swan Street, Richmond is a Major Activity Centre with a highly intact turn of the century 'High Street' occupying a large proportion of its length, as well as smaller precincts and individual heritage places dispersed along its full extent.

Amendment C191yara proposes to introduce four DDOs (DDO25, DDO26, DDO27 and DDO28) to the Activity Centre, with the different controls reflecting the different existing physical conditions and the potential development opportunities evident throughout the Activity Centre.

In its report of 15 October 2020, the Panel supported the use of mandatory controls for street wall and 6m upper-level setbacks for individually significant heritage places and intact heritage streetscapes, as well as mandatory controls for overall building heights in intact heritage streetscapes. Mandatory controls were also supported to protect views to local landmarks.

For parts of the Activity Centre that present a less consistent and more diverse built form expression, discretionary controls were considered to be appropriate.

In contrast to the Panel considering C220yara, the C191yara Panel considered that it was unnecessary to provide additional parameters to guide the form of upper level development, instead finding that the combination of specified heights, setbacks and design requirements for new upper-level development to be "visually recessive", were sufficient.

3.4 MORELAND AMENDMENT C134

Sydney Road, Brunswick is a Major Activity Centre with a highly intact, predominantly Victorian streetscape that is subject to the Heritage Overlay. Gazetted on 11 August 2016, C134more introduced DDO18, DDO19 and DDO20. DDO18 set mandatory street wall heights on Sydney Road north of Brunswick Road of between 8m and 11m.

DDO18 provides a preferred minimum 5m setback for development above the street wall and establishes a preferred ratio of ¾ : ¼ street wall to new built form through the following design objective:

- *Be designed to ensure that it occupies no more than one quarter of the vertical angle defined by the whole building in the view from an eye-level of 1.7 metres on the opposite side of the street, as illustrated in Figure 1 below.*

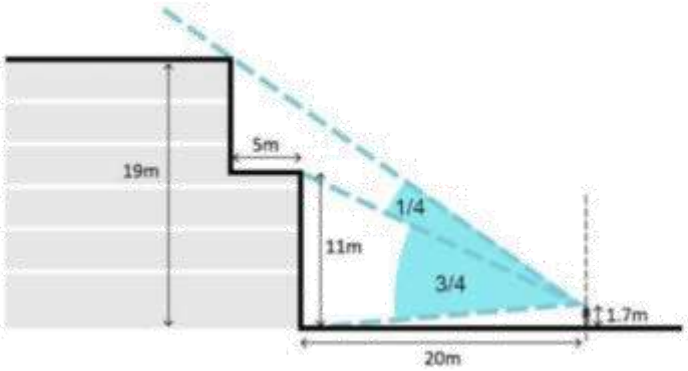

***Figure 11**: Upper-level setbacks along Sydney Road (Figure 1 in Moreland DDO18, retrieved 2 June 2017).*

DDO18 also provides a useful model for dealing with upper-level development where an existing heritage building in the heritage streetscape has a street wall height of less than the 11m street wall height provided in that control:

- *Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons new development may occupy more than one quarter of the vertical angle defined by the whole building outlined in Figure 1 above* [Figure 11 of this Built Form Review].

3.5 BOROONDARA AMENDMENT C108

The Panel considering C108boro discussed the use of mandatory street wall height, upper-level setbacks and overall heights across 31 Neighbourhood Activity Centres and three commercial corridors (Camberwell Road/Burwood Road and Canterbury Road).

In its report dated 26 February 2014, the Panel noted its strong support for the protection of heritage assets in Boroondara and recommended reinstatement of policy in the exhibited Amendment that encouraged new development on or adjoining a heritage place to be moderated. In particular, the Panel recommended that policy guidance be included that:

> *The combination of the height, setbacks and design treatment of new buildings should ensure a heritage place on or adjoining the site is not overwhelmed or dominated.*

The Panel also considered the use of mandatory height and setback controls, and recognised that the version of *Plan Melbourne* at that time foreshadowed stronger policy support for the use of mandatory provisions in neighbourhood centres (and residential areas) to increase planning certainty.

The Panel report recognised that mandatory provisions that prescribed standards without a capacity for departures have been supported in areas of consistently high heritage value with consistent character. While acknowledging the heritage values and 'main street' character of the Neighbourhood Activity Centres subject to C108, the Panel also recognised that new development will be visible behind the retained façades – particularly from oblique views – and that invisibility of upper-level development is either unreasonable or not necessary to maintain the primacy of the street wall.

In conclusion, the Panel accepted some use of mandatory controls within Boroondara's neighbourhood centres, but not in the commercial corridors:

> *The Panel recognises that Plan Melbourne foreshadows stronger policy support for the use of mandatory provisions in neighbourhood centres (and residential areas) to increase certainty. The Panel considers the combination of the street wall and upper level setbacks is critical in neighbourhood centres to maintain the established main street character and in these situations mandatory controls can be justified. However, we consider development with elements that exceed the nominated height and/or adopt alternative setbacks should not be precluded as they may produce better outcomes in some circumstances. The overall maximum height limits should therefore remain discretionary to allow for such circumstances.*

It was the Panel's conclusion that mandatory street wall heights which reflected the dominant character of the neighbourhood centres were acceptable (either 8m or 11m, depending on the context). It also found that if mandatory upper-level setbacks were to be adopted, they should be sufficient to ensure that in most cases the upper-storey will be clearly distinguishable from the street wall of the heritage building and be a recessive element in neighbourhood centre streetscapes. To achieve this, the Panel identified 5m as being an appropriate mandatory minimum setback for upper-level development in the context of Boroondara's Neighbourhood Activity Centres.

3.6 WHITEHORSE AMENDMENT C175

C175whit sought to implement the *Box Hill Metropolitan Activity Centre Built Form Guidelines* (Hansen Partnership, 2016) by rezoning land, introducing the Built Form Guidelines as a reference document and applying a new DDO Schedule to introduce built form controls. In its consideration of this Amendment, the Panel Report, dated 6 October 2017, stated:

> *The Panel would have benefited from a more sophisticated analysis of the heritage precinct that utilised three-dimensional modelling, sight lines and view-sheds to help understand the rationale for the proposed heritage related controls. Without this basic information, it is difficult to determine whether the proposed controls are appropriate...*

and concluded that in the absence of this modelling:

- *The Built Form Responses regarding Heritage should not proceed in their current form.*

The absence of 3D modelling, and sight line and view-shed analysis in relation to those areas of the Box Hill Activity Centre that are subject to the Heritage Overlay appears to have been critical in Panel recommending that the proposed built form controls not be applied to address heritage.

3.7 STONNINGTON AMENDMENT C223

The Glenferrie Road and High Street Major Activity Centre encompasses the two linear commercial strips of Glenferrie Road and High Street in Malvern, as well as two peripheral areas. The Heritage Overlay, which covers all of Glenferrie Road and most of High Street, acknowledges the area for its '*metropolitan significance as one of the major strip shopping centres to have retained its role into the late twentieth century, and for the quality and integrity of its Victorian, Federation and Interwar building stock*'.[1] C223ston sought to apply new built form provisions through the application of DDO19 to the entire Activity Centre, with precincts A and B covering the commercial and heritage precincts of Glenferrie Road and High Street respectively.

While the Amendment proposed an 8-10m setback above the street wall for precincts A and B, the Panel found it to be effectively a concealment of upper-level additions, supporting instead a 5m setback as adequate to respect heritage values without removing development capacity. This was derived from the precedent in the Boroondara Planning Scheme and was seen to equate to the typical first room of a Victorian-era building. The Amendment was otherwise generally supported by the Panel as an appropriate balance between protecting heritage values and enabling growth. Discretionary preferred maximum building heights between 14.5 metres (4 storeys) and 21 metres (6 storeys) were supported through precincts A and B.

The Panel also reviewed the drafting of discretionary and mandatory provisions, addressing the appropriateness of the terms 'should' and 'must'. The Panel noted that confusion arose from the DDO parent clause, and until such time as the clause is redrafted, the term 'must' is to be used for schedule requirements with the addition of further clarification if it can be varied with a permit.

3.8 DAREBIN AMENDMENT C161

C161dare proposed to implement the '*Fairfield Village Heritage Assessment, 2017*' (Heritage Intelligence) and '*Fairfield Village Built Form Guidelines 2017*' (Hansen Partnership) through the application of Heritage Overlay HO313 and DDO21 to the Fairfield Village Neighbourhood Centre. DDO21 created two sub-precincts: Area 1 to

[1] Retrieved from Victorian Heritage Database, 18 January 2018 (https://vhd.heritagecouncil.vic.gov.au/places/31530)

be applied to the proposed HO313 precinct; with the remainder of the Neighbourhood Centre covered by Area 2.

The Panel found the application of the Heritage Overlay in conjunction with the DDO would enable the precinct *'to support a variety of housing typologies at increased densities'* in a way that *'allows the heritage place to be identified and understood'*. Further, the Panel supported the application of a mixture of mandatory and discretionary controls to Area 1 of the DDO in the form of:

- Mandatory maximum building heights at 14.5m and 17.5m (four and five storey), triggered by a lot width of 24m for five-storey.
- Mandatory maximum street wall height to be the greater of 8.5m or the adjacent street wall.
- Discretionary minimum front setbacks above the street wall at generally 4m, and 8m if constructing to a fifth level.
- The addition of a 3m side setback at the fifth-floor level – introduced as a discretionary provision to prevent the creation of a dominating wall of development along Station Street.

3.9 SUMMARY

Table 1 – Summarised recommendations and implications

YARRA AMENDMENT C231	
Recommendation	*Implications*
Combination of preferred and mandatory heights.	The use of a balanced combination of preferred and mandatory heights is appropriate to respond to varied conditions.
Limiting heights within heritage precincts while allowing housing capacity to be met elsewhere in the broader precinct.	The most highly intact areas warrant low heights to protect heritage place. Larger scale development should be encouraged outside these heritage places.
Mandatory controls provide appropriate protection of key views of landmarks.	Views of landmarks (such as the Clifton Hill Shot Tower) may be protected through the use of mandatory controls.
YARRA AMENDMENT C220	
Recommendation	*Implications*
A 6m upper-level setback will retain the 'human scale' of Johnston Street, securing the distinction between the [heritage] street wall and upper-levels.	A 6m mandatory upper-level setback is an appropriate minimum.
In combination with upper-level front setbacks and maximum building heights the angular plane creates a further upper-level setback from the mid-level setback.	Upper-level development should be set further back from the street wall consistent with the guidance at 22.02-5.7.2.
YARRA AMENDMENT C191	

Recommendation	*Implications*
Combination of preferred and mandatory heights.	The use of a balanced combination of preferred and mandatory heights is appropriate to respond to varied conditions.
Limiting heights within heritage precincts while allowing housing capacity to be met elsewhere in the broader precinct.	The most highly intact areas warrant low heights to protect heritage place. Larger scale development should be encouraged outside these heritage places.
A 6m upper-level setback is necessary to avoid facadism and to retain the prominence of the heritage street wall	A 6m mandatory upper-level setback is an appropriate minimum for site-specific Heritage Overlays and intact heritage streetscapes.
The combination of upper-level front setbacks, maximum building heights and design requirements in respect of upper-level development is sufficient to manage taller built form in heritage contexts.	Further guidance in the form of a sight-line test or angular plane formulae is not warranted. Note: this conclusion differs from that of the Panel that considered C220yara.
MORELAND AMENDMENT C134	
Recommendation	*Implications*
The application of mandatory street wall heights to Sydney Road is justified.	Provides a justification for the application of mandatory street wall heights within intact and consistent heritage streetscapes.
BOROONDARA AMENDMENT C108	
Recommendation	*Implications*
The combination of the height, setbacks and design treatment of new buildings should ensure a heritage place on or adjoining the site is not overwhelmed or dominated.	The DDO can included height, setback and design treatment controls to avoid new development dominating heritage places.
New development will be visible behind the retained façades and that invisibility of upper-level development is not necessary.	Some visibility of new upper-level development (including from oblique views) will be acceptable and complete concealment is not necessary.
Mandatory upper-level setbacks to the commercial corridors are justified.	Provides a justification for the application of mandatory upper-level setbacks within the study area.
WHITEHORSE AMENDMENT C175	
Recommendation	*Implications*
In the absence of modelling, built form heritage controls should not proceed.	That 3D modelling, sightlines and viewshed analysis should inform built form controls.
STONNINGTON AMENDMENT C223	

Recommendation	*Implications*
Panel supported a 5m upper-level setback instead of the 8-10m setbacks proposed that effectively concealed upper-level development.	There is an expectation that the visibility of some new upper-level built from will be acceptable and complete concealment is not necessary.
Application of the words 'should' and 'must' within controls.	Use 'should' for preferred controls and 'must' for mandatory controls.
DAREBIN AMENDMENT C161	
Recommendation	*Implications*
The application of mandatory street wall heights to Fairfield Village is justified.	Provides a justification for the application of mandatory street wall heights within intact and consistent heritage streetscapes.
The application of mandatory street wall heights to Fairfield Village is justified.	Provides a justification for the application of mandatory street wall heights within the Study Area.

4.0 MANDATORY AND DISCRETIONARY HEIGHT AND SETBACK CONTROLS

Planning Practice Note 59: The Role of Mandatory Provisions in Planning Schemes (September 2018) (PPN59) notes that the VPPs are predominantly performance-based and that mandatory provisions are the exception. The PPN sets out a series of five criteria against which to test proposed mandatory provisions, being:

- Is the mandatory provision strategically supported?
- Is the mandatory provision appropriate to the majority of proposals?
- Does the mandatory provision provide for the preferred outcome?
- Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?
- Will the mandatory provision reduce administrative costs?

Planning Practice Note 60: Height and Setback Controls for Activity Centres (PPN60) provides specific guidance on the use of mandatory height and setback controls in Activity Centres. In September 2018, DELWP published an updated version of PPN60 following the completion of the pilot project *Better Height Controls in Activity Centres*[2].

Of relevance to this matter, PPN60 provides an additional justification for the use of mandatory controls based on 'comprehensive strategic work', which reads:

> *Mandatory height or setback controls should only be applied where:*
>
> - *exceptional circumstances exist; or*
> - *council has undertaken comprehensive strategic work and is able to demonstrate that mandatory controls are appropriate in the context, and*
> - *they are absolutely necessary to achieve the preferred built form outcomes and it can be demonstrated that exceeding these development parameters would result in unacceptable built form outcomes.*

In relation to 'exceptional circumstances', PPN60 states:

> *Exceptional circumstances may be identified for individual locations or specific and confined precincts, and might include:*
>
> - *significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values.*
> - *sites of recognised State significance where building heights can be shown to add to the significance of the place, for example views to the Shrine of Remembrance...*

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[2] Refer to the Panel Report to Yarra C220 chapter 1.2 for further discussion on the pilot project and the amendment to PPN60.

To pursue mandatory controls, PPN60 also states:

> *Where exceptional circumstances are identified, mandatory height and setback controls should only be applied where they are absolutely necessary to achieve the built form objectives or outcomes identified from the comprehensive built form analysis. Where mandatory controls are proposed, it will need to be demonstrated that discretionary controls could result in an unacceptable built form outcome.*

The amended version of PPN60 reflects a broader shift over time within the application of the VPPs in favour of the use of mandatory controls.

For this project, the purpose of the Hansen Built Form Review and this report is to provide a comprehensive strategic basis for height and setback controls within the study area.

The Panels that considered C108boro, C161dare, C134, C220yara, C191yara and C231yara provide further guidance on the application of mandatory built form controls along Alexandra Parade.

These Panels concluded that for Heritage Overlays within Activity Centres:

- Mandatory controls were appropriate for street wall heights along Sydney Road, in 31 neighbourhood centres in Boroondara and Area 1 of the Fairfield Village Neighbourhood Centre
- Mandatory upper level setbacks were appropriate in many of Boroondara's neighbourhood centres
- Mandatory heights were appropriate for Area 1 of the Fairfield Village Neighbourhood Centre
- Mandatory setbacks were appropriate for Johnston Street with a mixture of preferred and mandatory height limited combined with a 45 degree angular plane test.
- Mandatory height and upper level setback controls were appropriate to protect the most highly consistent and intact parts of Queens Parade and to protect views to key landmarks.

The Alexandra Parade Precinct does not include consistent, intact or cohesive streetscapes or large numbers of heritage places that warrant the widespread use of mandatory controls. Mandatory height controls are appropriate to protect key views of landmarks, such as the Clifton Hill Shot Tower. Mandatory minimum upper level setback controls are also warranted where it is necessary to protect the legibility and heritage fabric of buildings that are subject to the Heritage Overlay.

PART II: HERITAGE ANALYSIS

5.0 STUDY AREA ANALYSIS

5.1 PRECINCT BOUNDARY

Figure 12: Aerial image - Alexandra Parade Study Area outlined in black. Source: adapted from VicPlan

As noted previously, this report focuses on the Alexandra Parade Precinct, as shown in Figure 12 above. The following precincts were considered in the *Brunswick and Smith Street Built Form Review*, GJM Heritage, 25 November 2019:

- Brunswick Street Activity Centre Spine
- Town Hall Mixed Use Precinct
- Smith Street Activity Centre Spine
- Johnston Street Activity Centre Spine
- Fitzroy East Mixed Use Precinct.

Gertrude Street was the subject of the *Gertrude Street Built Form Framework: Heritage Analysis & Recommendations*, GJM Heritage, 9 December 2019.

The Collingwood Mixed Use Precinct was considered as part of a separate study: *Collingwood Mixed Use Pocket Heritage Analysis & Recommendations*, GJM Heritage, 6 June 2018.

The Fitzroy West Mixed-Use and the Victoria Parade Boulevard precincts are subject of separate reports prepared as part of this study.

The following sections contain an analysis of the heritage components and qualities of the Alexandra Parade Precinct, including significant views. An analysis of future built form character considerations has also been provided, along with recommended built form parameters to appropriately manage heritage values.

5.2 HERITAGE CHARACTERISTICS

The Alexandra Parade Precinct does not include any cohesive or linear heritage streetscapes. The precinct includes only two individual heritage places: Clifton Hill

Shot Tower (VHR H0709) and the former Murray Co. Wool Works at 457 Hoddle Street, Clifton Hill (HO89). The former is a municipal-wide landmark of State-level significance, while the latter is a locally significant single-storey brick factory dating to 1918.

The remaining properties subject to the Heritage Overlay are located in precincts that are generally residential in character. These precincts include small-scale early-twentieth century factory buildings (612-614, 616-622 and 628-632 Smith Street; within HO317), the large multi-storey Interwar British United Shoes Machinery Machinery Co. Pty Ltd factory (200 Alexandra Parade, Fitzroy, within HO334) and the former Haliburton Wool Works (94-100 Alexandra Parade, Clifton Hill, within HO317). Other graded heritage properties within the study area include the modest single-storey terraced, semi-detached or freestanding houses at 1 Council Street, Clifton Hill (HO317); 58 & 60 Alexandra Parade, Clifton Hill (HO317); 47 & 49 Alexandra Parade, Collingwood (HO321); and 347 & 347a Wellington Street, Collingwood (HO321). The precinct includes two corner hotels, the Gasometer Hotel at 484 Smith Street, Collingwood dating from c.1859 (not Heritage Overlay at the time of writing, but recommended for inclusion as an individual heritage place as part of the Brunswick and Smith Street Built Form Review) and the Fox Hotel (formerly the Tower Hotel) at 351 Wellington Street dating from the 1930s in its current form (HO321).

The built form within the study area exhibits little visual cohesion and the areas of land subject to the Heritage Overlay is limited to individual buildings or short runs of heritage precinct streetscape on Alexandra Parade, Smith Street and Wellington Street.

Figure 13: *(left) British United Shoes Machinery Co. Pty Ltd factory, 200 Alexandra Parade ('Individually significant' within HO334).*

Figure 14: *(right) Former Spry Bros. Boot Factory, 628-632 Smith Street, Clifton Hill ('Contributory' within HO317)*

Figure 15: *Gasometer Hotel, 484 Smith Street, Collingwood (recommended for inclusion on the Heritage Overlay as an individual heritage place)*

Figure 16: *(right) View of the Clifton Hill Shot Tower (VHR H0709) from the intersection of Alexandra Parade and Wellington Street (note this is not one of the primary views identified in the Ethos Urban 'Landmarks and Views Assessment')*

Figure 17: *(left) Fox Hotel, 351 Wellington Street and terraced houses, 47 & 49 Alexandra Parade, Collingwood ('Contributory' within HO321).*

Figure 18: *(right) Semidetached pair of houses, 347 & 347A Wellington Street and the Fox Hotel, 351 Wellington Street, Collingwood ('Contributory' within HO321)*

Figure 19: *(left) 56, 58 & 60 Alexandra Parade, Clifton Hill (no. 56 graded 'Not-contributory', nos. 58 & 60 graded 'Contributory' within HO321)*

Figure 20: (right) *Former Haliburton Wool Works, 94-100 Alexandra Parade, Clifton Hill ('Contributory' within HO321).*

Figure 21: *(left) Former Haliburton Wool Works, 94-100 Alexandra Parade, Clifton Hill viewed from Noone Street ('Contributory' within HO321).*

Figure 22: *(left) Former Murray Co. Wool Works, 457 Hoddle Street, Clifton Hill (individual heritage place HO89).*

5.3 LOCAL LANDMARKS

While municipal-wide landmarks within the City of Yarra are identified within Clause 22.03 'Landmarks and Tall Structures' of the Yarra Planning Scheme, the location, scale, function and architectural form and detail of some other buildings within the study area has resulted in these buildings acting as local landmarks. These buildings serve as markers, wayfinding aids or landmarks in the local streetscape context due to their siting at key intersections, or their scale within the surrounding streetscape.

In identifying these local landmarks, this report has also considered the Ethos Urban report entitled *Landmarks & Views Assessment* (October 2019). Chapter 2.2.2 of this report considers the views of the Clifton Hill Shot Tower which is identified at Clause 22.03-4 of the Yarra Planning Scheme.

In the context of the Alexandra Parade Precinct, the local landmarks are limited to two corner hotels and a large industrial building, as described in Table 2.

Table 2 – Local landmark buildings

Address	Building Name	Type	Corner	Grading	Photograph
200 Alexandra Parade, Fitzroy	British United Shoes Machinery Co. Pty Ltd factory	Large industrial building occupying an entire block	Alexander Parade and George & Gore streets	Individually significant (HO334)	©City of Yarra (VHD)
457 Hoddle Street, Clifton Hill	Former Murray Co Wool Works	Industrial building on a prominent corner site with highly visible roof slopes and a prominent chimney	Alexandra Parade and Hoddle Street	Individually signficant (HO89)	©City of Yarra (VHD)
484 Smith Street, Collingwood	Gasometer Hotel	Hotel on a prominent corner site	Alexander Parade and Smith Street	Not within an HO	
351 Wellington Street, Collingwood	Fox Hotel (former Tower Hotel)	Hotel on a prominent corner site	Alexander Parade and Wellington Street	Contributory (HO321)	

The Fox Hotel dates from 1871 but underwent an external remodelling in the interwar period, which was commonplace at this time. The Gasometer Hotel is more intact to its c.1859 form. These two buildings share similar characteristics, namely:

- two storey height
- parapeted form (only in part to the Fox Hotel)
- visible roof form (only in part to the Gasometer Hotel)
- visible chimneys
- masonry construction with less than 40% of the upper-level street wall face comprised with openings such as windows and doors
- splayed corners with return façades to both street frontages.

The British United Shoes Machinery Co. Pty Ltd and former Murray Co Wool Works building are imposing industrial buildings located in prominent corner locations.

6.0 ALEXANDRA PARADE HERITAGE ANALYSIS

6.1 HERITAGE STATUS

6.1.1 Existing conditions

The majority of the Alexandra Parade Precinct is not subject to any heritage controls. The study area includes two individual heritage places, one of which is included on the VHR (H0709 - Clifton Hill Shot Tower). The remaining properties subject to the Heritage Overlay are located at the southern boundary of HO317 – Clifton Hill West Precinct; or at the northern boundary of HO321 – Gold Street Precinct, Collingwood and HO334 – South Fitzroy Precinct.

***Figure 23**: Heritage Overlay and VHR map – Alexandra Parade precinct outlined in black. Source: adapted from VicPlan*

Note: the only VHR site that falls within the study area is the Clifton Hill Shot Tower (H0709), the extent of registration for which is indicated by yellow circle.

***Figure 24**: Current heritage gradings from Appendix 8 – Alexandra Parade precinct outlined in black. Source: adapted from VicPlan*

Note: the only VHR site that falls within the study area is the Clifton Hill Shot Tower (H0709), the extent of registration for which is indicated.

The existing heritage status for the buildings within the study area are listed in Table 3. We note however that there is some inconsistency between the street addresses provided within Appendix 8 and those identified in VicPlan. The addresses, dates of construction and gradings provided below are taken directly from Appendix 8.

Table 3 – Existing heritage status

VICTORIAN HERITAGE REGISTER				
VHR #	*Name*	*Address*	*Heritage Overlay*	*Date*
H709	[Clifton Hill] Shot Tower	94 ALEXANDRA PARADE CLIFTON HILL	HO85	1882
INDIVIDUAL HERITAGE OVERLAYS				
Heritage Overlay #	*Name*	*Address*	*Appendix 8 Grading*	*Date*
HO89	Former Murray Co Wool Works	457 HODDLE STREET CLIFTON HILL	Individually significant	1918
PRECINCT HERITAGE OVERLAYS				
Heritage Overlay #	*Name*	*Address*	*Appendix 8 Grading*	*Date*
HO317	Clifton Hill West Precinct	628-632 Smith Street: Factory, former Spry Bros. Boot Factory Site	Contributory	1910
		628-632a Smith Street: Factory & Offices (Cantarella)	Not Contributory	1960 -1970
		616-622 Smith Street: Factory, former	Contributory	1900 – 1925
		612-614 Smith Street: Factory	Contributory	1900 – 1915?
		1 Council Street: House	Contributory	1880 -1890
		1a Council Street: Factory	Not Contributory	1930 -1950
		7 Council Street	Contributory	1900 -1915
		9 Council Street	Contributory	1900 -1915
		11 Council Street	Contributory	1900 – 1915
		13 Council Street	Contributory	1880 -1890
		15 Council Street	Contributory	1850 -1890
		15a Council Street	Ungraded	
		20 Reeves Street	Ungraded	

		406 Wellington Street: Factory	Not contributory	1930-1940
		406a Wellington Street	Contributory	1880-1890
		406b Wellington Street	Contributory	1880-1890
		56 Alexandra Parade	Not contributory	1880-1890
		58 Alexandra Parade	Contributory	1880-1890
		60 Alexandra Parade	Contributory	1880 1890
		88-92 Alexandra Parade: Factory complex	Not contributory	??
		94 Alexandra Parade: Haliburton Wool Works. Former (& Shot Tower)	Contributory	1880 – 1890[1]
HO321	Gold Street Precinct, Collingwood	43-45 Alexandra Parade: Flats	Not contributory	1960 – 1970
		47 Alexandra Parade	Contributory	1870 – 1890
		49 Alexandra Parade	Contributory	1870 – 1890
		351 Wellington Street: Tower Hotel, former later The Office Inn	Contributory	1850 – 1930[2]
		347a Wellington Street	Contributory	1925 – 1930
		347 Wellington Street	Contributory	1925 – 1930
		51-61 Alexandra Parade: Factory	Not contributory	1915 – 1925
HO334	South Fitzroy Precinct	200 Alexandra Parade: British United Shoe Machinery Co. Pty Ltd Factory	Individually significant	1932

[1] The history and analysis prepared for the former Haliburton Wool Works did not identify any extant fabric dating from pre-1945 with the exception of brickwork associated with the shot tower.

[2] The history prepared as part of this report identified the original construction of the Tower Hotel as 1871.

6.1.2 Recommended Changes

The review of the existing extent and grading of buildings was limited to substantial omissions and anomalies. The review did not include a complete re-assessment of the 'Individually significant' / 'Contributory' / 'Not-contributory' gradings of individual buildings. A table of the identified anomalies is provided at Appendix I.

The Gasometer Hotel at 484 Smith Street, Collingwood was identified as warranting inclusion on the Heritage Overlay as an individual heritage place in the field work undertaken for the Brunswick and Smith Street Built Form Review, and a citation was prepared (see Appendix II).

In addition, it was noted that neither the Quonset Warehouse-type prefabricated building at 20 Reeves Street nor the former Haliburton Wool Works at 94-100 Alexandra Parade, Clifton Hill demonstrate the identified heritage characteristics of HO317 – Clifton Hill West Precinct and assessments have been undertake to determine whether or not these warrant inclusion on the Heritage Overlay as individual heritage places. The Quonset Warehouse was associated with former industrial uses within this part of Clifton Hill and it is recommended that it be included as an individual heritage place in the Schedule to the Heritage Overlay; the citation for this building is provided at Appendix III. The extant fabric of the former Haliburton Wool Works dates from after 1945 and does not contribute to the heritage values of HO317, nor is it considered to meet the threshold for inclusion on the Heritage Overlay in its own right as an individual heritage place.

The former British United Shoe Machinery Co. Pty Ltd Factory at 200 Alexandra Parade, Fitzroy is located within the predominantly low-rise residential South Fitzroy Precinct (HO334). While HO334 includes industrial complexes including the former MacRobertson Confectionary factory, the former British United Shoe Machinery Co. Pty Ltd Factory does not form part of a consistent heritage context and is located at the northern edge of the Heritage Overlay precinct, separated physically from other heritage fabric. We note the Statement of Significance prepared for this building included in the Reference Document 'City of Yarra Review of Heritage Precincts 2007: Appendix 7 - Individually significant places not from the main development era', which should inform the redevelopment of this heritage place.

Other recommended changes are:

- Re-grading the substantially altered terraced houses at 58 and 60 Alexandra Parade, Clifton Hill from 'Contributory' to 'Not-contributory' within HO317 to recognise the extent of their alteration, lack of heritage context, and lack of contribution to a heritage streetscape;
- Removing 51-61 Alexandra Parade, Collingwood from the extent of HO321 as this large parcel of land does not contain heritage fabric;
- Seeking an amendment to the extent of registration of the Clifton Hill Shot Tower to provide an adequate curtilage and to include the nineteenth century fabric at the base of the structure; and
- Amend Appendix 8 to identify the Clifton Hill Shot Tower as a place on the VHR.

6.2 ZONING

6.2.1 Existing conditions

The carriageway and median strip of Alexandra Parade, as a major east-west thoroughfare, is zoned Road Zone (RDZ1). The land within the study area on the northern side of Alexandra Parade is variously zoned Commercial 2 Zone (C2Z), General Residential Zone (GRZ) and Mixed Use Zone (MUZ). Along the southern side of Alexandra Parade the land is zone Commercial 1 Zone (C1Z), C2Z and MUZ. These zones generally reflect the historic and contemporary land use of the Alexandra Parade Precinct.

The land to the north and south of the Alexandra Parade Precinct is generally zoned Neighbourhood Residential Zone (NRZ), the majority of which is also included within HO317, HO321 or HO334.

Figure 25: Zone map - Alexandra Parade Precinct outlined in black. Source: adapted from VicPlan

6.2.2 Recommended Changes

The currenting zoning of land within the Alexandra Parade Precinct is considered to be appropriate in heritage terms and no changes are recommended.

6.3 POTENTIAL FUTURE CHARACTER CONSIDERATIONS

Alexandra Parade is an area of highly variable built form, the majority of which is not subject to the Heritage Overlay. There are no cohesive heritage streetscapes within the study area, with the continuous runs of heritage buildings limited to no more than three graded buildings in a row. The limited heritage fabric, coupled with the significant variation in the form and character of the graded buildings (from large factory complexes to modest terraced housing) means that heritage considerations will have a more limited role in informing the overall preferred future character of the Alexandra Parade Precinct than in many other parts of the City of Yarra.

Where the Heritage Overlay applies[3], new development within, or adjacent to, these sites should consider the heritage values of that place and be sited, massed and designed to retain the visual prominence of the heritage building. For example, the Former Murray Co Wool Works at 457 Hoddle Street, Clifton Hill, has highly visible roof slopes and a prominent chimney that is visible from the eastern side of Hoddle Street. These features, as well as being integral to the heritage form of the building, help communicate its historic use and function and should be retained within any future development.

The Alexandra Parade Precinct has sensitive interfaces to the north and south which are characterised by a transition to single and two-storey terraced, semi-detached and detached housing dating from the mid-late nineteenth century through to the early twentieth century. These residential areas are generally located within the NRZ and are subject to HO317, HO321 or HO334. New development should consider the impacts on these heritage precincts in terms of the visual and physical interfaces, as well as amenity considerations.

6.4 RECOMMENDED BUILT FORM PARAMETERS

Any DDO proposed for the Alexandra Parade Precinct should apply built form guidance to ensure that new built form is respectful of the heritage places within the area.

A DDO control applied to properties within the Alexandra Parade Precinct that are subject to – or immediately adjacent to – the Heritage Overlay should ensure new development respects the heritage significance of the place and is sited, massed and designed to be visually recessive and to not dominate the heritage place. This includes ensuring that appropriate interfaces are provided between the generally smaller-scale heritage buildings within predominantly residential precincts and potential new development along Alexandra Parade.

A DDO control should also ensure that key views to the State-significant Clifton Hill Shot Tower are maintained and not diminished by future development.

To develop appropriate built form parameters for the Alexandra Parade Precinct, Hansen Partnership, the City of Yarra and GJM Heritage undertook the following analysis:

- Heritage and urban context information, known planning scheme amendments, and past and current planning applications was collected and analysed; and

[3] With the exception of that land which is recommended to be removed from the extent of the Heritage Overlay, namely 51-61 Alexandra Parade, Collingwood.

- Built form parameters from the above analysis were drawn and then tested, firstly via cross-sectional drawings and then via a 3D model to determine their appropriateness.

Informed by the analysis and testing methodology outlined above, it is recommended that a DDO should seek built form outcomes that:

- Ensure new development does not obscure 'primary' views of the Clifton Hill Shot Tower and retains 'secondary' (as identified in 'Landmarks and Views Assessment', Ethos Urban, October 2019) and other views from street intersections.
- Retain the visual prominence of local landmarks in the streetscape.
- Retain chimneys and principal roof forms visible from the public realm (excluding laneways) in new development within the Heritage Overlay.
- Ensure new development within the Heritage Overlay does not visually dominate the existing heritage fabric.
- Ensure any upper-level or infill development is subservient to heritage fabric and is visually recessive in mass, scale and materiality.
- Encourage the top-most level (or levels) of new development to be set further back from a principal heritage frontage (as encouraged at Clause 22.02-5.7.2) and treated as a visually separate roof top element.
- Retain the visual prominence of the return façades of buildings that address both Alexandra Parade and cross streets (particularly at the principal intersection with Smith and Wellington streets) by setting back new upper-level built form from both street frontages.
- Ensure that the heritage buildings remain prominent within the streetscape and retain their three-dimensional form as viewed from the public realm to avoid 'facadism'.

7.0 BUILT FORM TESTING

To assist in the translation of the 'Recommended Built Form Parameters' in Part II into specific guidance that could be translated into a DDO control, the heritage analysis was reviewed against cross-sectional drawings of potential development envelopes and 3D computer modelling prepared by Hansen Partnership and the City of Yarra to test the appropriateness of particular built form outcomes that achieved the intent of the 'Recommended Built Form Parameters'.

As well as the cross-sectional drawing studies, 3D computer modelling using Sketchup Pro™ of potential bulk and massing envelopes for the study area was also interrogated. The existing built form was modelled along with approved, but not yet constructed, development in the Alexandra Parade Precinct. It was used as a 'working' massing model to inform heights and setbacks on key development sites and to provide a comparative visual analysis. Given the relatively small proportion of the study area that is subject to the Heritage Overlay, the 3D modelling was particularly useful in testing the generally more generous built form parameters applied to the larger, less-encumbered potential development sites rather than those with intact heritage buildings.

The Sketchup model was also interrogated to consider the impact of new buildings from the natural eye level (1.6m) on the public footpath.

Extensive field work was undertaken and site visits were used to inform the recommendations made in this report. Views of heritage places were only considered from the public footpath with particular emphasis placed on intersections where pedestrians are likely to dwell.

PART III: BUILT FORM RECOMMENDATIONS

8.0 BUILT FORM RECOMMENDATIONS

Any DDO applied to the Alexandra Parade Precinct should include provisions to complement, but not duplicate, the decision guidelines at Clause 43.01-8 (Heritage Overlay), State Planning Policy at Clause 15.03-1S and local policy within Clauses 22.02, 22.03 and 22.10 (or as translated into the post-VC148 Planning Policy Framework) of the Yarra Planning Scheme to inform new development.

Having regard to the heritage conditions within the study area as well as cross-sectional drawings and 3D modelling prepared by Hansen Partnership and the City of Yarra, it is recommended that the built form controls set out in 8.1 below be applied to new development to ensure appropriate weight is given to the heritage values within the study area. The cross-sectional drawings and 3D modelling helped assess whether or not the upper-level development would 'be visually recessive and not dominate the heritage place' as sought at Clause 22.02-5.7.1.

The lack of any consistent streetscapes within the Heritage Overlay removes the need for a ¾ : ¼ ratio of street wall to new built form sightline (from Moreland DDO18) or a '45° angular plane' test (from Yarra DDO15) to protect the visual prominence of the street wall. Likewise, the lack of consistent heritage streetscape, the wide variety of heritage built form, and the need to allow for a range of design outcomes means that preferred, rather than mandatory, height controls should be applied.

The protection of the views to – and visual backdrop of – the Clifton Hill Shot Tower would normally warrant the application of mandatory upper-level setback and overall height controls, however in this case the land at 94-100 Alexandra Parade, Clifton Hill is zoned GRZ and is subject to Schedule 4 which provides a mandatory maximum height limit of 11.5m. While GRZ4 provides an exemption "...for the construction of a new building that exceeds the specified building height which does not exceed the height of immediately adjacent buildings facing the same street"[4], it is assumed that this does not establish a policy position that development on this site can match, or even approach, the 68.97m[5] height of the Shot Tower. Likewise, the land to the north, east and west of this site is zoned NRZ1 which provides for a mandatory maximum height of 9m and two (2) storeys, protecting the backdrop and setting of the shot tower. Should the zoning regime change in this location, insofar

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[4] The mandatory height limit of 11.5m is subject to the following exemptions:

- An extension of an existing building that exceeds the specified building height provided that the extension does not exceed the existing building height.
- An extension of an existing building or the construction of a new building that exceeds the specified building height which does not exceed the height of immediately adjacent buildings facing the same street.
- The rebuilding of a lawful building or works which have been damaged or destroyed.
- A building which exceeds the specified building height for which a valid building permit was in effect prior to the introduction of this provision.

[5] Statement of Significance - Shot Tower, 94 Alexandra Parade, Clifton Hill (VHR H0709) (VHD Place ID 295)

as mandatory height controls within the NRZ and GRZ zones, built form parameters should be reviewed and mandatory height limits introduced to protect the views to the Shot Tower.

Buildings graded 'Individually Significant' and 'Contributory' are referred to as 'heritage buildings' within the table below and those graded 'Not-contributory' or that are vacant are considered 'infill sites'.

8.1 RECOMMENDED DDO CONTROLS

Built Form Element	Mandatory	Preferred	Rationale
New built form	New built form must: – not impede views to the Clifton Hill Shot Tower from: 1) Brunswick Street and Alexandra Parade Intersection (north-east corner of centre median) 2) Eastern Freeway (west of the Hoddle Street Overpass) 3) Darling Gardens (Rotunda);	Retain the Clifton Hill Shot Tower as the principal built form landmark when viewed from the south side of Alexandra Parade between Brunswick and Hoddle streets. Encourage the retention of views of the Clifton Hill Shot Tower from: 4) Roseneath Street and Hoddle Street Intersection 5) Gold Street and Queens Parade intersection.	The Clifton Hill Shot Tower is a State-significant structure that is identified as a landmark of municipal significance in Clause 22.03. Note: while it is policy at Clause 22.03-4 that "New buildings within the vicinity of the following landmarks should be designed to ensure the landmarks remain as the principal built reference" additional guidance is required to protect the 'Primary' and 'Secondary' views identified in the from 'Landmarks and Views Assessment' (Ethos Urban, October 2019).
Street wall height (infill development) within or immediately adjacent to land subject to the Heritage Overlay	-	Match the parapet height of the adjacent heritage building to the width of the property boundary or for a distance of 6m, whichever is less. (preferred)	To ensure new built form responds to its immediate heritage context. A preferred control is appropriate given the highly varied heritage fabric and interface conditions.
Front setback (infill development) within or immediately adjacent to land subject to the Heritage Overlay	-	Match the setback of the principal façade of the adjacent heritage building (preferred)	To ensure new built form responds to the heritage context which generally has a small or no setback.
Minimum setbacks above street wall within or immediately adjacent to land subject to the Heritage Overlay	6m minimum for heritage buildings Note: the setbacks for individual heritage places should also be informed by their Statements of Significance and the	6m minimum for sites immediately abutting land subject to the Heritage Overlay	The built form of heritage buildings varies across the Alexandra Parade Precinct. The application of a mandatory 6m setback is consistent with that through DDO25, DDO26, DDO27 and DDO28 proposed to

	historic fabric of the heritage place.		be introduced through C191yara. A larger setback from the principal facades of heritage buildings may be required development to be set back, and for the retention of an appropriate and legible three-dimensional heritage form.
Maximum building heights within the Heritage Overlay	-	43-45 Alexandra Parade, Collingwood – 14m 47 & 49 Alexandra Parade and 347, 347a & 351 Wellington Street, Collingwood – 11m 200 Alexandra Parade, Fitzroy – 32m 1 Council Street, Clifton Hill – 11m 457 Hoddle Street – 11m 20 Reeves Street, Clifton Hill – 9m 484 Smith Street, Collingwood – 14m 612-632 Smith Street, Clifton Hill – 21m	The variety of heritage building stock, existing urban form and interface conditions require a range of maximum building heights. The overall height that can be accommodated on large former industrial buildings such as the former British United Shoes Machinery factory is much greater than may be achieved on sites occupied by two storey corner hotels or single storey houses without adversely affecting their heritage values. A preferred control will enable a wide range of design responses. Note: 408-412 Wellington Street, Clifton Hill and 56-60, 88-92 & 94-100 Alexandra Parade, Clifton Hill are zoned GRZ4 and therefore have a mandatory 11.5m height limited applied. Therefore, no height limited is required to be established in the DDO.

8.2 ADDITIONAL GUIDANCE

The heritage policy proposed as part of C269yara includes specific strategies to address new development and alterations to commercial and industrial heritage places. If these provisions are implemented, additional heritage design requirements are not likely to be needed within a DDO. However, if new development is to be informed by the existing heritage provisions at Clauses 15.03-1S, 21.05-1, 22.02 and 43.01 of the Yarra Planning Scheme, we recommend that the following heritage design requirements be applied to a DDO:

- New infill development within heritage precincts should:
  - Interpret the historic façade rhythm, including fenestration patterns and proportions, the relationship between solid and void, and the existing module of structural bays.
  - Retain the visual prominence of prominent corner buildings and local landmarks.

  - Be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.
  - Ensure façade treatments and the articulation of new development are simple and do not compete with the heritage fabric.
  - Avoid the replication of existing decorative features and architectural detail.
- The adaptation of existing heritage buildings should:
  - Discourage highly reflective glazing in historic openings.
  - Ensure the inter-floor height of the existing building is maintained and avoid new floor plates and walls cutting through historic openings.
  - Encourage the retention of solid built form behind retained facades and avoid balconies behind existing openings.
- New upper-level development behind existing heritage buildings should:
  - Retain the visual prominence of parapet and roof-top elements including parapets, balustrades, pediments, visible roof forms, chimneys, lanterns, urns and other architectural features, where these exist.
  - Be set back to retain the visual prominence of prominent corner buildings and local landmarks.
  - Ensure that the design and setback of the addition does not visually dominate the heritage building or surrounding heritage places.
  - Retain the primacy of the three-dimensional form of the heritage building.
  - Incorporate materials and finishes that are recessive in texture and colour.
  - Generally utilise visually lightweight, but high quality, materials that create a juxtaposition with the heavier masonry of the heritage facades.
  - Incorporate simple architectural detailing so it does not detract from significant elements of the existing building or streetscape.
  - Provide a recessive backdrop to the heritage streetscape within precincts and to individual heritage buildings.
  - Avoid highly articulated facades with recessed and projecting elements.
  - Avoid highly contrasting or vibrant primary colours.
  - Avoid unarticulated façades that give a bulky appearance, especially from oblique views.
  - Be articulated to reflect the fine-grained character of narrow sites.
- New development on land immediately abutting heritage places should:

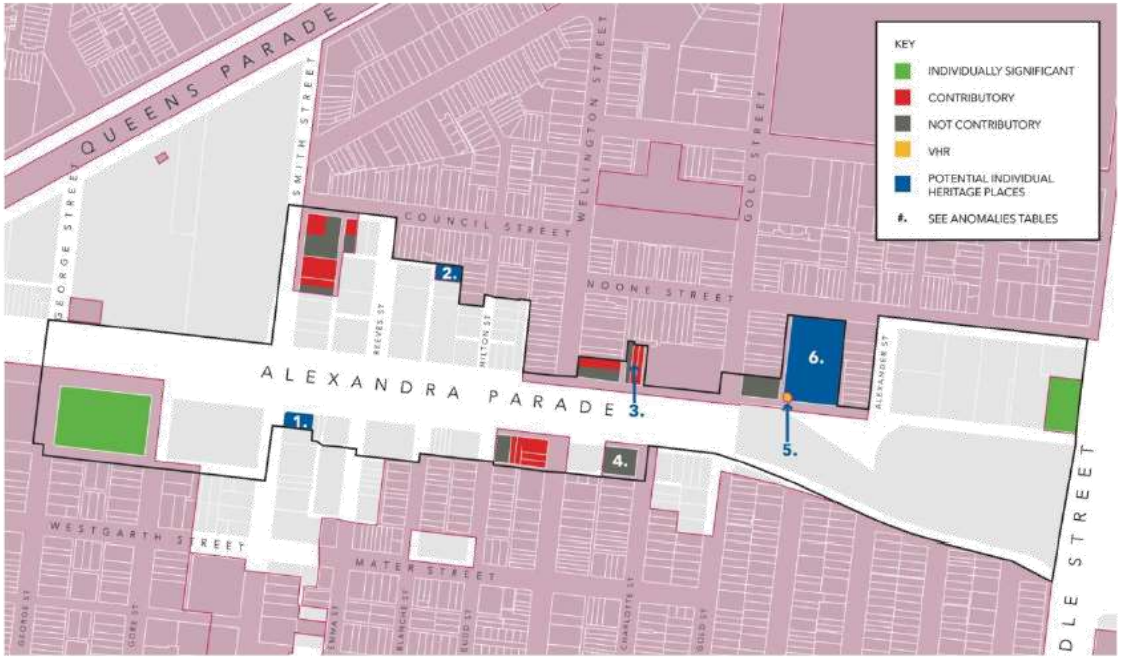
- Provide a sensitive site-responsive transition between the existing heritage fabric and the new proposed built form.
- Retain the visual prominence of prominent corner buildings and local landmarks.
- Be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.
- Ensure façade treatments and the articulation of new development are simple and do not compete with the heritage fabric.
- Avoid the replication of existing decorative features and architectural detail.

APPENDIX I - Alexandra Parade Precinct Anomalies

A1.1 Qualifications

- Only obvious omissions and anomalies have been identified
- Review of individual gradings across the precinct has not been undertaken
- Photos taken by GJM March 2020 unless otherwise noted.

A1.2 Anomalies Map



A1.3 Anomalies

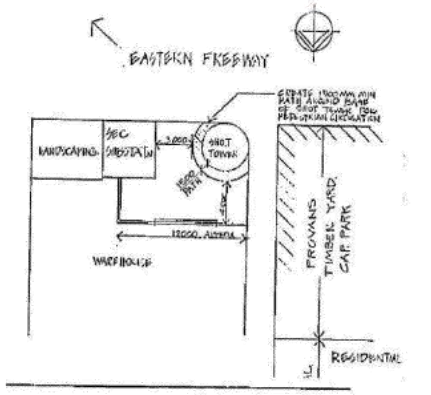
Recommendations are provided in **bold.**

MAP REF	ADDRESS (HO NUMBER)	CURRENT GRADING APPENDIX 8	CURRENT GRADING PRECINCT MAP	PROPOSED GRADING	COMMENTS / RECOMMENDATION (BOLD)	IMAGES
1.	The Gasometer Hotel, 484 Smith Street, Collingwood (No HO)	Not within HO	-	Individual heritage place	The Gasometer Hotel is an intact mid nineteenth century hotel on the prominent Smith Street / Alexandra Parade intersection. It is similar to other hotels currently graded individually significant within Appendix 8 and warrants inclusion on the HO. Assessment and citation prepared by GJM August 2019. **Include the Gasometer Hotel as an individual heritage place on the Schedule to the Heritage Overlay. Refer to Appendix II for citation.**	
2.	20 Reeves Street, Clifton Hill (HO317)	No grading	No grading	Reviewed	The building located at 20 Reeves Street is a steel framed corrugated metal clad building in a Quonset Warehouse-form. It does not display any of the characteristics of the Clifton Hill Western Precinct Statement of Significance but warrants inclusion on the HO in its own right. An assessment has identified that this building was associated with former industrial uses within this part of Clifton Hill and warrants inclusion on	

Attachment 4 - Attachment 4 - Alexandra Parade Heritage Review V2

					the Heritage Overlay as an individual place. **Include the steel building at 20 Reeves Street, Clifton Hill as an individual heritage place on the Schedule to the Heritage Overlay. Refer to Appendix III for citation.**	
3.	56, 58 and 60 Alexandra Parade, Clifton Hill (HO317)	56 Alexandra Pde - Not contributory 58 Alexandra Pde - Contributory 60 Alexandra Pde - Contributory	56 Alexandra Pde - Not contributory 58 Alexandra Pde - Contributory 60 Alexandra Pde - Contributory	56 Alexandra Pde - Not contributory 58 Alexandra Pde - Not contributory 60 Alexandra Pde - Not contributory	These three single-storey terraced houses are identified in Appendix 8 as dating from 1880-90. All have undergone very substantial alterations such that their original form is no longer readily discernible. Additionally, they have no cohesive residential context as defined by the Clifton Hill Western Precinct Statement of Significance. Collectively, and individually, they make little or no contribution to HO317. **Prepare an assessment to inform a potential amendment to Appendix 8.**	
4.	51-61 Alexandra Parade, Collingwood (HO321)	Not contributory	Not contributory	Remove from HO321	The Gold Street Precinct (HO321) extends north of the laneway at the rear of 51-61 Alexandra Pde to include an isolated factory building dating from 1915-25 that is graded 'Not-contributory' in Appendix 8. **Amend the extent of HO321 and Appendix 8 to omit 51-61 Alexandra Parade.**	

Attachment 4 - Attachment 4 - Alexandra Parade Heritage Review V2

6.	Shot Tower, 94 Alexandra Parade, Clifton Hill (VHR H0709; HO85)	Contributory	Individually significant	VHR – amend extent	The Shot Tower at 94 Alexandra Parade is included in the VHR "to the extent of all of the whole of the Shot Tower building and the land ... the extent of 1.5 metres of circulating space surrounding the base of the Shot Tower". It is considered that this does not provide an adequate curtilage for the structure. **It is recommended that an application be made under s.62(1) of the *Heritage Act 2017* to amend the VHR entry to include an appropriate area of land at the base of the Shot Tower that includes associated nineteenth century fabric.** Appendix 8 and the grading map do not accurately reflect the VHR registration. **Amend Appendix 8 and the grading map to identify the Shot Tower as a place included on the VHR.**	 

Attachment 4 - Attachment 4 - Alexandra Parade Heritage Review V2

7.	Former Haliburton Wool Works, 94-100 Alexandra Parade, Clifton Hill (HO317)	Contributory	Non-contributory	Reviewed	The Former Haliburton Wool Works complex is located adjacent to the Shot Tower. While it is identified in Appendix 8 as being constructed between 1880-90 and is graded 'Contributory', the built fabric on site dates from after 1945. It does not display any of the characteristics of the Clifton Hill Western Precinct Statement of Significance. The assessment concluded that the post-war factory complex does not contribute to the heritage values of HO317, nor does it warrant inclusion on the Heritage Overlay in its own right. **Amend Appendix 8 and the grading map to identify this site as 'Not-contributory'.**	

APPENDIX II – Citation and Statement of Significance: The Gasometer Hotel, 484 Smith Street, Collingwood

GJM Heritage

Heritage Citation

GASOMETER HOTEL

Address: **484 Smith Street, Collingwood**
Prepared by: GJM Heritage
Date: August 2019

Place type: Hotel	**Architect:** Not known
Grading: Locally significant	**Builder:** Not known
Integrity: High	**Construction Date:** c1859
Recommendation: Include in the Heritage Overlay	**Extent of Overlay:** To property title boundaries

Figure 1. 484 Smith Street, Collingwood (GJM Heritage, October 2019)

Statement of Significance

What is significant?

The Gasometer Hotel, 484 Smith Street, Collingwood, built c1859.

Elements that contribute to the significance of the place include (but are not limited to):

- The original external form, materials and detailing of the building
- The high level of integrity to its original design
- Façade parapet, with pitched roofs behind
- No front setbacks
- Rendered walls
- Rendered detailing and ornament including pilasters, quoining and ball finials
- Horizontal lines formed by parapet, cornice, string course and rows of windows
- Repetitive upper floor fenestration patterns
- Splayed corner with entrance, pilasters, quoining and pediment.

Later alterations and additions, including the barrel-vaulted roofed section to the east, are not significant.

How is it significant?

The Gasometer Hotel, 484 Smith Street, Collingwood is of local historical and architectural significance to the City of Yarra.

Why is it significant?

The Gasometer Hotel, 484 Smith Street, Collingwood is of significance as a suburban hotel constructed at a prominent corner location in Collingwood. The hotel has operated on this site since c1859 (Criterion A).

The Gasometer Hotel, 484 Smith Street, Collingwood is an intact and representative example of a Victorian-era hotel. It displays typical characteristics of the early Victorian period in Collingwood and across Melbourne more broadly, including a plain parapeted façade with repetitive upper floor fenestration, rendered facades and a prominent splayed corner entrance with pilasters, quoining and pediment (Criterion D).

Historical Themes

The place illustrates the following themes as outlined in the *City of Yarra Thematic History* (1998):

7.0 Leisure and Entertainment in the Suburbs

- 7.1 Licensed Hotels and 'Sly Grog'

Place History

This corner building was not evident on the 1858 Clement Hodgkinson map of Collingwood; the map shows the east side of Smith Street, between what is now Keele Street and Alexandra Parade as vacant land.

The earliest found reference to the hotel was an advertisement published in March 1860 in *The Argus* (20 March 1860:1) entitled 'Gasometer Hotel, Collingwood Gas Works, to Let, on Lease', describing the property as follows:

> *erected as a pioneer to the settlement of a populous neighbourhood. The whole paddock adjoining is surveyed, with plans for sale in allotments at a low price, with deferred payments. The new market contiguous is fenced. The great and increasing traffic of Smith-street, with the numerous employees at the gasworks, give assurance for the establishment of a good business within a short period.*

This indicates that the hotel was built c1859-60, while the parapet of the building records the date 1861. The hotel was presumably named after the three large gasometers that were located opposite at the

Fitzroy Gasworks (north-west corner of Smith Street and Alexandra Parade, gasometers dismantled 1978) (Lovell, 1998: Vol 1, 71). In 1861, tenders were requested from carpenters for the erection of a stable and verandah, with applicants to apply to the Gasometer Hotel, Smith Street, Collingwood (*Argus*, 19 Nov, 1861:1).

The 1864 rate books record that Charles A. Mater was the owner of the stone hotel on the site, letting to George Pashley, licensed victualler. The 1867 rate books described the 'Gasometer Hotel' as a brick and stone building with twelve rooms, still owned by Mater. By 1874 the hotel was owned by Richard Benham and the following year ownership passed to Johanna Benham, licensed victualler (Ward, 1995:553). Richard and Johanna Benham retained ownership of the hotel for many years, until at least 1906 (*Age*, 19 Feb 1906:9), and by 1916 their son Richard William Benham was the owner (*Argus*, 12 Feb 1916:11; 22 Feb 1916:4).

A Melbourne and Metropolitan Board of Works (MMBW) plan (Figure 2) show the extent of the hotel and its outbuildings in 1896. The 1900 MMBW detail plan (Figure 3) showed the corner hotel and outbuildings annotated with their use. The rear of the property had a pitched, open space bordered along the east and south boundaries by stables, a wash house and water closets, with access provided off Alexandra Parade (then called Reilly Street).

Plans of the property dating to 1956 show footprints of the hotel building and outbuildings and records the occupant and owner at this date as S. Moore (Figure 4). The plan appears to show that the accessway off Alexandra Parade and stables, set back from the front title boundary (as in figure 3), remained at this date (PSP). Later additions and structures now occupy the south-east portion of the property; a barrel-vaulted building occupies the site of the original stable, washhouse and accessway.

The building continues to serve as the Gasometer Hotel in 2019.

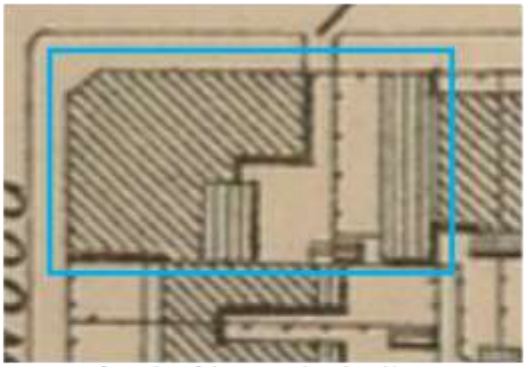


Figure 2. A footprint of the corner hotel and its outbuildings in 1896 (subject site indicated by blue polygon). The diagonal hatching indicates buildings constructed of brick or stone; vertical/horizontal hatching indicates buildings constructed of timber (MMBW 29, dated 1896).

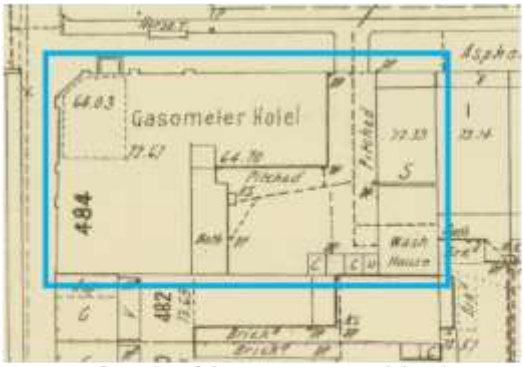


Figure 3. A footprint of the Gasometer Hotel dated 1900 (subject site indicated by blue polygon) (MMBW Detail Plan 1214, dated 1900).

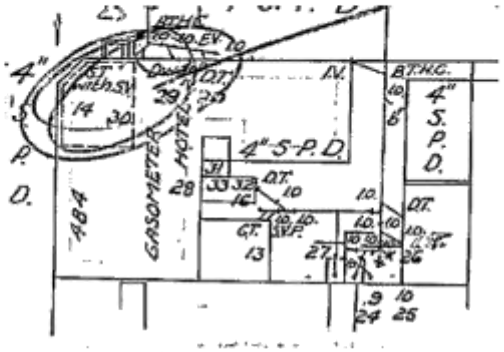


Figure 4. A plan of the site showing footprints of the buildings extant in 1956, annotated with sewerage works (PSP).

Physical Description

The Gasometer Hotel, 484 Smith Street, Collingwood is prominently located on the south-east corner of Smith Street and Alexandra Parade. Built in the early Victorian period, the building comprises a two-storey element addressing the street corner, an adjoining single-storey wing to the east and additional buildings further to the east along Alexandra Parade.

The two-storey corner hotel is a rendered stone (overpainted) building with two corrugated steel-clad, hipped roofs which run in a north-south direction, and two large rendered chimneys at the southern end. A third broad chimney is situated at the east wall of the two-storey building, behind the Alexandra Parade façade. The building has a splayed corner with ground floor entrance door, window at first floor level and pediment above which contains the description 'Gasometer Hotel' and the date '1861'. The ground floor façades contain a variety of window and door openings and are articulated with plain pilasters, while the corners of the upper façades are quoined. The upper-level fenestration comprises regularly spaced rectangular windows – six in the longer Smith Street façade and two facing Alexandra Parade. Openings are frameless and window sills are supported on plain corbels. A simple cornice forms the parapet of the building and a string course between the ground and upper floor relieves the plain façades.

An adjacent single-storey wing, facing Alexandra Parade, has a simple gable-roof which runs parallel to the front façade and is parapeted at the eastern end. The detailing of the corner building is repeated in this wing, with simple pilasters and frameless rectangular windows. The string course of the adjacent two-storey building continues to form the base of the single storey parapet which contains a row of recessed panels.

A barrel-vaulted roofed section, located further to the east in Alexandra Parade, is set behind a single-storey, parapeted façade. Constructed across an original accessway from Alexandra Parade to an internal courtyard at some stage after 1956, the façade of this later addition appears to repeat some of the earlier detailing of the original building.

Integrity

The Gasometer Hotel, 484 Smith Street, Collingwood retains a high degree of integrity to the early Victorian period in fabric, form and detail. While the building has undergone some additions to the east, these do not diminish the ability to understand and appreciate the place as a fine example of an early Victorian hotel.

Comparative Analysis

The Gasometer Hotel, 484 Smith Street, Collingwood is an intact and representative example of an early Victorian corner hotel. There are a substantial number of hotels included in the Heritage Overlay of the

Yarra Planning Scheme as individually significant buildings, including some built in the 1850 to 1870 period. Direct comparison can be made with the following examples:

- Birmingham Hotel, 333 Smith Street, Fitzroy (1853-), 'individually significant' in HO333, Smith Street Precinct
- Former Liverpool Arms Hotel, 299 Brunswick Street, Fitzroy (1860-70), 'individually significant' in HO311, Brunswick Street Precinct.

Figure 5. Birmingham Hotel, 333 Smith Street, Fitzroy (VHD)

Figure 6. Former Liverpool Arms Hotel, 299 Brunswick Street, Fitzroy (VHD, photo dated 2009)

These comparators are representative of hotel buildings constructed in the early Victorian period and are architecturally significant as intact examples of hotels from this period. Like the places above, the Gasometer Hotel displays a range of early Victorian characteristics including:

- Façade parapet, with pitched roof behind
- No front setbacks
- Rendered walls and detailing
- Horizontal lines formed by parapet, cornice, string course and rows of windows
- Repetitive upper floor fenestration patterns
- Splayed corner with entrance.

The Gasometer Hotel remains highly intact to demonstrate the key characteristics of this early type of hotel development in the City of Yarra.

Assessment Against Criteria

Following is an assessment of the place against the recognised heritage criteria set out in *Planning Practice Note 1: Applying the Heritage Overlay* (August 2018).

Criterion A: *Importance to the course or pattern of our cultural or natural history (historical significance).*

The Gasometer Hotel, 484 Smith Street, Collingwood is of significance as a suburban hotel constructed at a highly prominent corner location in Collingwood. The hotel has operated on this site since c1859.

Criterion D: *Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).*

The Gasometer Hotel, 484 Smith Street, Collingwood is an intact and representative example of a Victorian-era Hotel. It displays typical characteristics of the early Victorian period in Collingwood and across Melbourne more broadly, including a plain parapeted façade with repetitive upper floor fenestration, rendered facades and a prominent splayed corner entrance with pilasters, quoining and pediment.

Grading and Recommendations

It is recommended that the place be included in a site-specific Heritage Overlay in the Yarra Planning Scheme as an individually significant heritage place.

Recommendations for the Schedule to the Heritage Overlay (Clause 43.01) in the Yarra Planning Scheme:

External Paint Controls?	No
Internal Alteration Controls?	No
Tree Controls?	No
Outbuildings or Fences not exempt under Clause 43.01-3?	No
Prohibited Uses Permitted?	No
Incorporated Plan?	No
Aboriginal Heritage Place?	No

Extent of the recommended Heritage Overlay

To the property title boundary, as indicated by the green polygon on the aerial below.

(Source: Nearmap, aerial dated Aug 2019)

Identified by:

Andrew C Ward & Associates (1989), *Collingwood Conservation Study* & (1995) *Collingwood Conservation Study Review* :

Recommended for Planning Scheme protection.

Significance: The "Gasometer" hotel is important as a prominent and early hotel which recalls the existence of the former Metropolitan Gas Co. premises opposite.

GJM Heritage (2019), *Brunswick Street and Smith Street Built Form Review, Heritage Assessments.*

References:

Allom Lovell & Associates (1998), *City of Yarra Heritage Review.*

Andrew Ward & Associate (1995), *Collingwood Conservation Study Review.*

Clement Hodgkinson, 'Plan shewing the streets and buildings in existence in East Collingwood on January 1st 1858' compiled from surveys executed under the direction of Clement Hodgkinson.

Melbourne and Metropolitan Board of Works: Plan 29 (scale 160ft to 1 inch), Fitzroy & Collingwood, dated 1896; Detail Plan 1214, dated 1900.

Property Sewerage Plan (PSP), No. 53022.

The Age.

The Argus.

Victorian Heritage Database (VHD), place records.

APPENDIX III – Citation and Statement of Significance: Quonset Warehouse, 20 Reeves Street, Clifton Hill

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QUONSET WAREHOUSE

20 REEVES STREET, CLIFTON HILL, 3068

Figure 1. 20 Reeves Street, Clifton Hill (GJM Heritage, March 2020).

DATE: 27 August 2020 - DRAFT

FILE: 2020-008

QUONSET WAREHOUSE

20 REEVES STREET, CLIFTON HILL

Place type: Prefabricated wartime building	**Architect:** Not applicable
Construction Date: Erected on site between 1945 and 1951	**Builder:** Not applicable
Recommendation: Remove from HO317 and include in a site-specific Heritage Overlay	**Extent of Overlay:** To the property title boundary (see plan at Figure 18).

Contextual history

Nissen, Romney and Quonset huts

The Nissen hut is a prefabricated steel and corrugated iron structure developed in 1916 by Major Peter Nissen, an Officer in the Royal Engineers, and extensively by British and Commonwealth forces during World War II. The Romney hut is a larger variation of the Nissen hut. The Quonset hut is another variation of the Nissen hut type and was developed by the American Navy in 1941.

Although Australian troops became familiar with Nissen and Romney huts through overseas service during the war, they were not used in Australia until they were sourced to provide migrant accommodation in the late 1940s.

In 1949, 860 Nissen huts and 100 Romney huts were bought from the British Ministry of Works and a supply of at least 50 Quonset huts was acquired from an ex-US base on Manus Island off Papua New Guinea. These were dismantled and shipped to Australia by January 1950. Later that year another 1500 Nissen huts and 50 Romney huts were bought from the Ministry of Works for £20,000. A further 2000 prefabricated huts of various sizes were bought from private dealers. These prefabricated huts were distributed amongst migrant centres throughout the country.

By 1953 there was a surplus of these huts and they began to be used for other Commonwealth uses such as at military bases and airports, as well as for civilian uses where they became a popular temporary structure for community organisations such as the scouts, local clubs and church groups. A number also found their way into private use, particularly as farm structures (VHD).

Nissen huts had standard sizes, being either 16ft, 24ft or 30ft wide (4.9m, 7.3m or 9.1m) with longitudinal bays in multiples of 6ft (1.8m). The Quonset hut measured either 16ft x 36ft (4.9m x 11.0m) or 24ft x 60ft (7.3m x 18.2m) and the Stran-Steel Quonset measured either 20ft x 40ft (6.1m x 12.2) or 20ft x 56ft (6.1m x 17.1m) (Stuart).

Quonset warehouses

A 'warehouse' version of the Quonset hut was developed, providing floor space of 40ft x 100ft (12.2m x 30.5m). About 300 of these were produced. These were later replaced by a Quonset-type warehouse which had the same measurements but also had the option of a concrete floor. These buildings were often called Elephant Houses and in Australia, attracted the name of SAAR Hut (possibly a corruption of Stran-Steel Arched Rib) (Stuart).

Place History

The Quonset warehouse was constructed at 20 Reeves Street in the immediate post-World War II period. The site was originally occupied by a small, timber building in the late nineteenth-century, which had been demolished by the turn of the century. The 1901 Melbourne and Metropolitan Board of Works (MMBW) plan (Figure 3) indicates the site was under the same ownership as 25 Council Street, located to the north, from the early 1900s (LV: V1973/F453). From 1919 to 1940, John Kavanagh, wool classer of 25 Council Street, Clifton Hill, owned the subject site. Following Kavanagh's death in August 1940, the property was transferred to Clifford Duffy, then Lewis Wyatt, draughtsman of Surrey Hills in October 1940 (LV:V1973/F453).

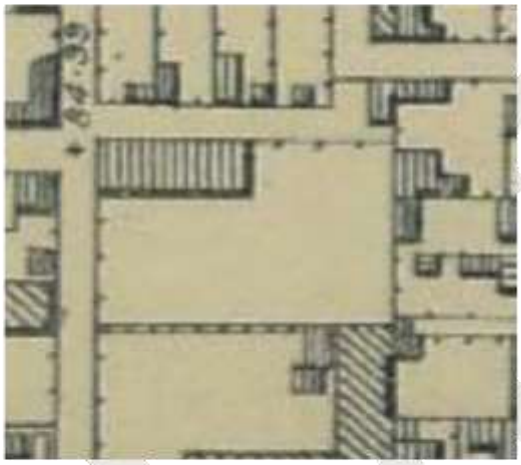

Figure 2. The subject site in 1896, occupied by a small timber building (MMBW No. 29, dated 1896).

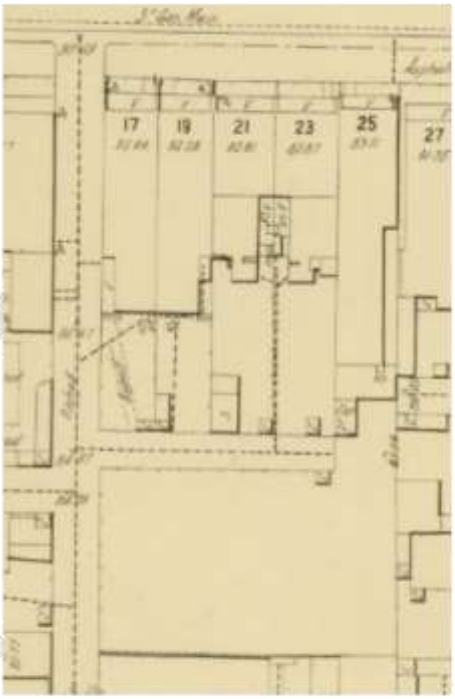

Figure 3. The subject site in 1901 with an apparent link to 25 Council St to the north (MMBW DP No. 1215, dated 1901).

In August 1947, E T Brown Limited of 14 Alexandra Parade, Clifton Hill, purchased the subject site (LV:V1973/F453). An aerial photo dated 1945 (Figure 4) shows the site occupied by earlier buildings at the time while an aerial dated January 1951 shows the extant hut erected at the subject site (Figure 5), indicating the structure was erected between 1945 and 1951. The date of erection indicates that the warehouse was bought directly from the supplier, rather than being a surplus or re-purposed military structure. The structure at the subject site measures approximately 12.5m x 24m (approx. 41ft x 78ft), suggesting the building was originally constructed as a 40ft wide Quonset warehouse but with a truncated length to suit the dimensions of the site.

Figure 4. The subject site in 1945, which appears to show earlier buildings occupying the lot (Landata).

Figure 5. The subject site in January 1951, occupied by the extant hut (Landata).

E T Brown, engineers, had been located on the block immediately west of the subject site, at 14 Reilly Parade (now 16 Alexandra Parade) from the 1880s (*Herald*, 12 Jun 1935:28). From the 1920s they expanded their operations to 14-24 Alexandra Parade, with Watson Brothers, ironworkers occupying the eastern portion of this property (east of the right-of-way) from c1925 (S&Mc). A new building was constructed for E T Brown on the north-east corner of Alexandra Parade and Reeves Street in 1935, which was entered off Reeves Street (*Herald*, 12 Jun 1935:28). The company evolved into Brownbuilt Ltd, with their steel equipment division occupying 14-24 Alexandra Parade until at least the mid-1970s (S&Mc).

From c1955 to c1965, the Sands & McDougall Directories listed E T Brown Ltd as the occupant of 18 Reeves Street (the last property listed on the east side of Reeves Street before Council Street). This part of the site was used by the company for storage. The company, now called Brownbuilt Ltd (steel equipment division), continued to be listed at 18 Reeves Street until at least the mid-1970s (S&Mc). Watson Brothers, who had occupied the eastern portion of the Alexandra Parade property from c1925, continued to be listed to the east of Watsons Lane (the previously unnamed right-of-way) until c1965. It is unclear whether the subject site was utilised by E T Brown or Watson Bros, as both listings in the Directory have the potential to refer to the subject property.

In September 1979, the subject site was sold to Wagon Mound Nominees Pty Ltd, of '230-240 Alexandra Parade, Clifton Hill' and Etka Nominees Pty Ltd of Caulfield. From 1982, Wagon Mound Nominees were the sole owners, now located at 14 Alexandra Parade, Clifton Hill. Subsequent owners were Lesellen Services (Central) Pty Ltd of South Melbourne from 1983, and Cathedral Arch Pty Ltd, of '14-24 Alexandra Avenue', Clifton Hill, from October 1986 (LV:V2973/F453).

In 2006, the building was unoccupied (Figure 6) before undergoing works c.2009 and c.2012 to be converted for office use (YCC BP; Nearmap). Drawings dated 2009 (Figure 8 – Figure 11) indicate that the works comprised the unboarding and either repair or replacement of windows to match existing on the side (north and south) elevations, removal of existing windows and addition of new windows to the west elevation, new doors to the

south and west elevations, and a new balcony on the south elevation (mezzanine level). Annotations note that the steel structure and existing roof and wall cladding were to be retained (YCC BP).

From c.2014 the building served as both an office and caretaker's residence for the nearby factory under the same ownership (YCC BP).

Figure 6. The west and south elevations of the vacant building in April 2006 prior to conversion (YCC BP).

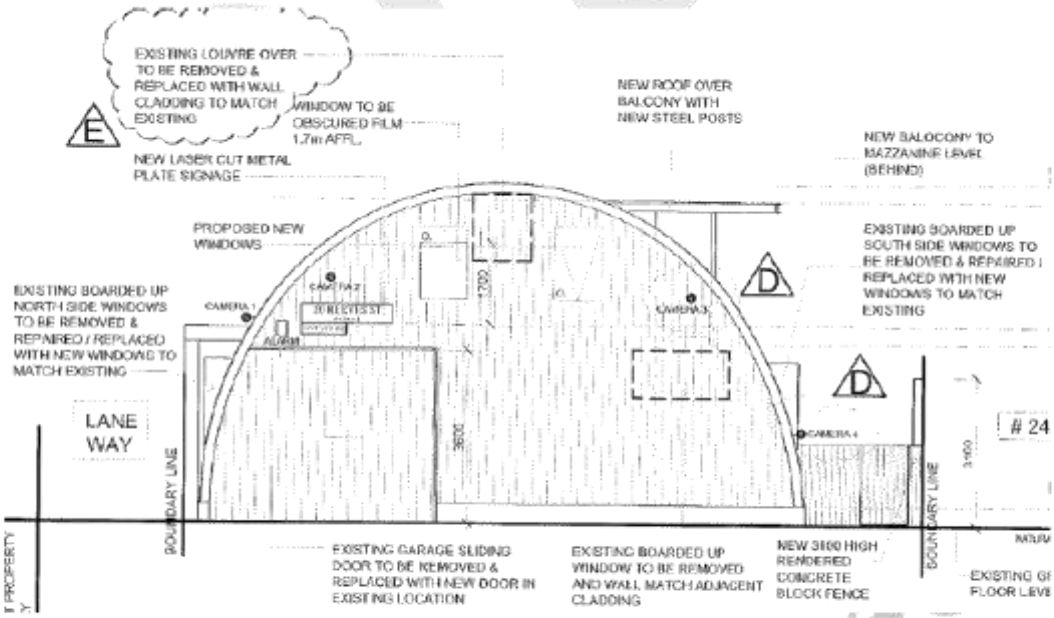

Figure 8. West elevation showing proposed works. Drawing dated 2009 (YCC BP).

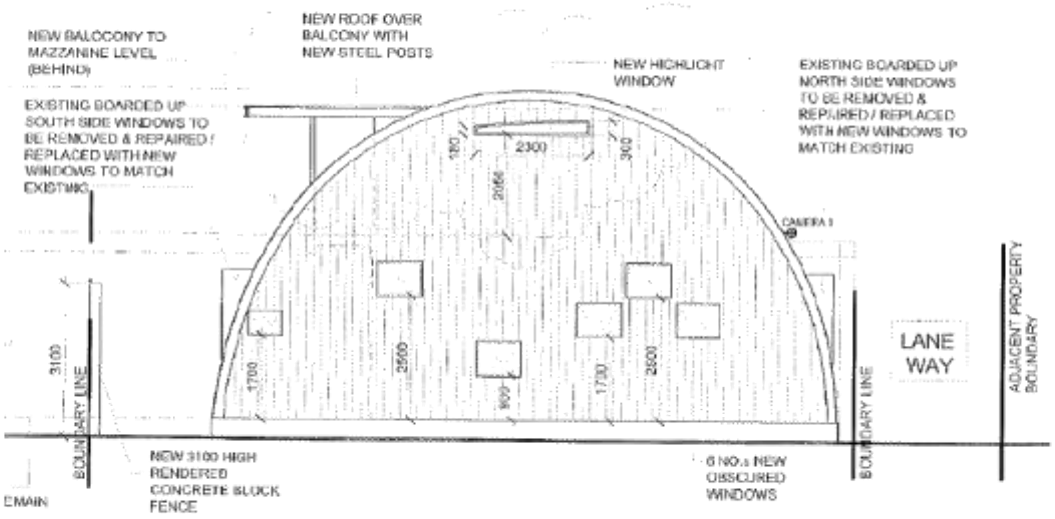

Figure 9. East elevation showing proposed works. Drawing dated 2009 (YCC BP).

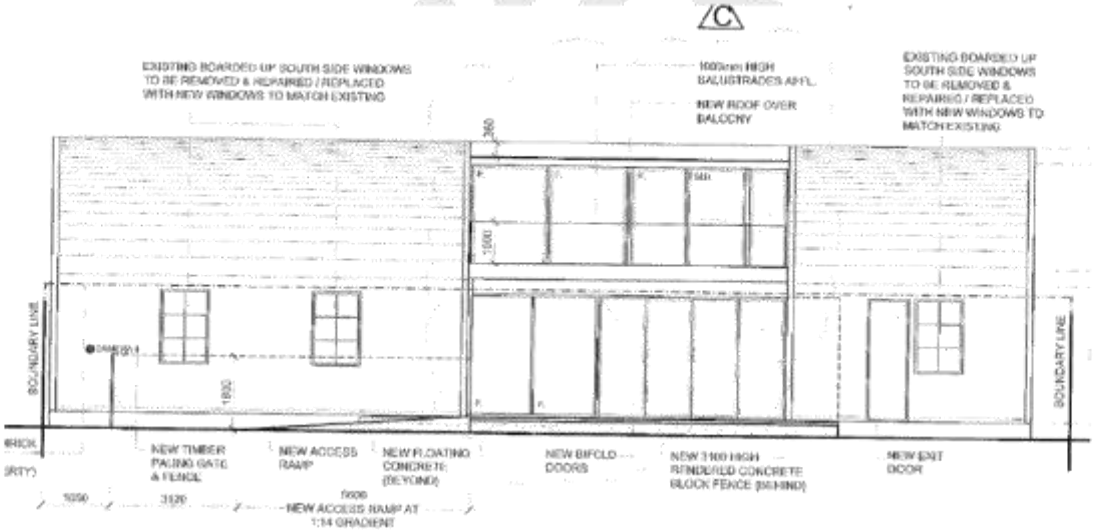

Figure 10. South elevation showing proposed works. Drawing dated 2009 (YCC BP).

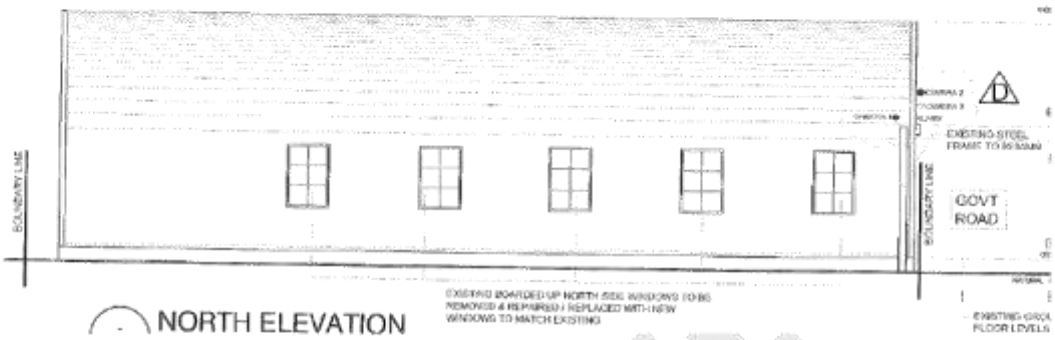

Figure 11. North elevation showing proposed works. Drawing dated 2009 (YCC BP).

Historical Themes

The place illustrates the following themes as outlined in the *City of Yarra Thematic History* (1998):

4 Developing local economies

- 4.2 Secondary Industry

Description

The Quonset warehouse at 20 Reeves Street addresses a bluestone laneway (Watsons Lane) that connects Reeves Street to the east boundary of the site and bisects the block created by Alexandra Parade to the south, Council Street to the north, Reeves Street to the west and Hilton Street to the east (Figure 12). The building occupies almost the whole of the land parcel with side access provided to the south of the Quonset warehouse.

The building is a prefabricated, semi-cylindrical structure comprising steel framing, corrugated steel cladding and a concrete foundation. It measures approximately 12.5m wide x 24m deep (41ft x 78ft), with the apex of the structure at approximately 7.1m in height.

The corrugated steel cladding is laid horizontally on the north and south walls and is overlaid with a separate metal sheet that acts as the 'roof' (Figure 14). The end walls (east and west elevations) are clad in corrugated steel laid vertically. The junctions of the 'roof' and side walls are flashed with steel sheet. A large sliding door is located on the left-hand side of the western end wall and is supported by a steel post and beam (with an I-profile) (Figures 14-15). Two introduced sash windows are located above the sliding door. No windows are visible at the north elevation, and the east elevation is not visible from the public realm. The 2009 drawings indicate that new openings have been introduced to the south elevation, including glazed bifold doors at the ground level with a balcony covered by a flat roof above (Figure 17) as well as new window openings to the east elevation.

Alterations include the bifold doors and roofed balcony extension to the south elevation, the replacement of the sliding door to the west elevation and new windows or window openings to the south, east and west elevations. The building has also been completely re-clad.

draft

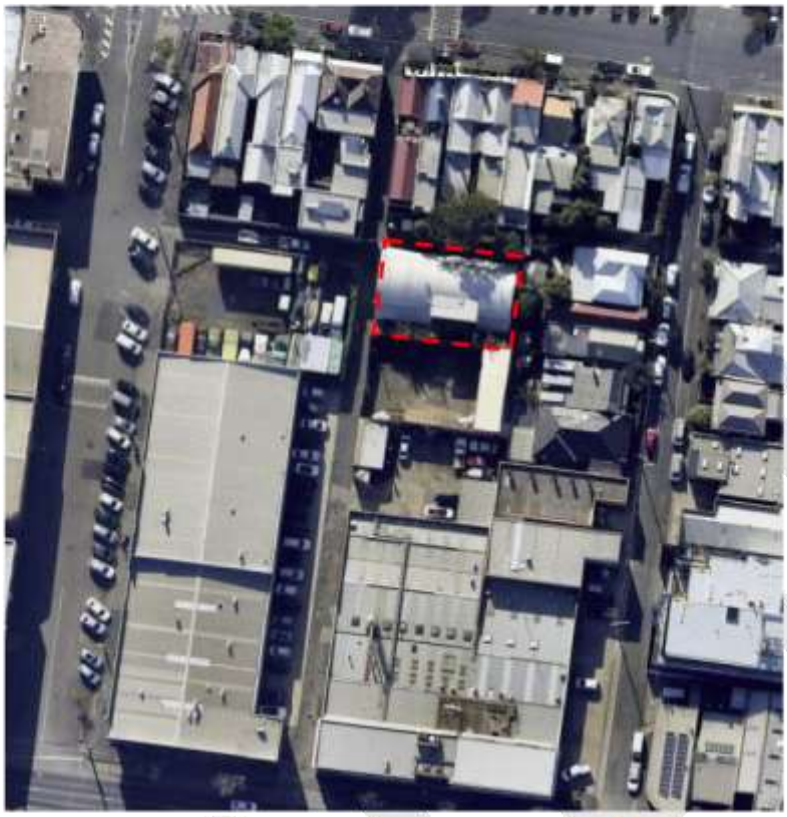

Figure 12. Aerial of the site (indicated) dated 4 June 2020, showing relationship of Wastons Lane to Reeves Street (west), Alexandra Parade (south) and Council Street (north). Hilton Street at right. Note location of later roofed balcony to the south elevation of the building. (Source: Nearmap, accessed July 2020)

Figure 13. West elevation of the structure, showing later window suites above the sliding door.

Figure 14. North elevation of the structure, showing 'eave' line. The walls drain directly to the laneway surface.

Figure 15. Looking southeast along Watsons Lane, showing the (later) sliding garage door at the northwest corner of the building with external post-and-beam steel support.

Figure 16. The southwest corner of the building, showing the formed concrete foundation.

Figure 17. Looking northeast from the rear of 10 Reeves Street to the subject site, showing later balcony extension.

Integrity/Intactness

The Quonset Warehouse at 20 Reeves Street retains a high degree of integrity in its form and materiality to its period of construction in the early post-war period. Despite some external modifications, including the introduction of the roofed balcony extension, new window openings to the west and south elevation and the replacement of the cladding, the place can be readily understood and appreciated as a Quonset Warehouse.

Comparisons

The Quonset Warehouse at 20 Reeves Street, Clifton Hill is of note as a rare example of a wartime prefabricated building in the City of Yarra.

No other examples of this class of place are currently included in the Heritage Overlay of the Yarra Planning Scheme and the subject building appears to have no direct comparators in the City of Yarra. The Porter Prefabricated Iron Store, previously located at 111 Queens Parade, Fitzroy North (VHR H2243), is another pre-fabricated metal structure in the municipality; however, this dates to the 1850s and isn't directly comparable to this mid-twentieth century structure.

Assessment Against Criteria

Following is an assessment of the place against the recognised heritage criteria set out in *Planning Practice Note 1: Applying the Heritage Overlay* (August 2018).

Criterion A: Importance to the course or pattern of our cultural or natural history

The Quonset Warehouse at 20 Reeves Street, Clifton Hill is historically significant as an example of a wartime prefabricated building utilised for industrial, and later commercial, use. It has a clear association with the post-World War II shortage of building materials when newly constructed or military-surplus huts were utilised for a range of government and private purposes such as migrant accommodation, churches, light industry, storage, agricultural use and community gathering spaces.

Criterion B: Possession of uncommon, rare or endangered aspects of our cultural or natural history

The Quonset Warehouse at 20 Reeves Street, Clifton Hill is a rare example of a prefabricated military building in the City of Yarra. Once commonly utilised practice across Victoria in the post-war period to address building restrictions and to curtail shortages in building supplies, examples of these prefabricated structures are

becoming increasingly rare and there are no other known examples within the City of Yarra. The place remains sufficiently intact to clearly demonstrate this rare building type in the municipality.

Grading and Recommendations

It is recommended that the place be removed from HO317 (Clifton Hill Western Precinct) and included in the Heritage Overlay of the Yarra Planning Scheme as a site-specific heritage place.

Recommendations for the Schedule to the Heritage Overlay (Clause 43.01) in the Yarra Planning Scheme:

External Paint Controls?	No
Internal Alteration Controls?	No
Tree Controls?	No
Outbuildings or Fences not exempt under Clause 43.01-3?	No
Prohibited Uses Permitted?	No
Aboriginal Heritage Place?	No

Extent of the Recommended Heritage Overlay

To the property title boundary, as indicated by the red polygon on the aerial below.

Figure 18. Recommended Extent of Heritage Overlay (Basemap Source: Nearmap, February 2020)

References

Landata, historical aerial photographs.

Landata Victoria (LV), Certificates of Title, as cited.

Melbourne and Metropolitan Board of Works:

Plan No. 29, dated 1896

Detail Plan No. 1215, dated 1901.

Nearmap, aerial photography.

Sands & McDougall Directories (S&Mc).

Stuart, Dr Ian, 'The Diffusion of the Quonsets to Australia (1942-1948)', published in the CHS Newsletter (2009). *An abridged version of a paper given at the 2009 Pacific Connection Conference.*

The Herald.

Victorian Heritage Database (VHD), Heritage Victoria citation for 'Former Maribyrnong Migrant Hostel, 61-71 Hampstead Road Maidstone, Maribyrnong City', < https://vhd.heritagecouncil.vic.gov.au/places/35583>, accessed June 2020.

Yarra City Council (YCC), Building Permit information provided by Council.

Draft

Quonset Warehouse, 20 Reeves Street, Clifton Hill
Statement of Significance, August 2020 [DRAFT]

Heritage place: Quonset Warehouse, 20 Reeves Street, Clifton Hill, 3068	PS ref no.: HO TBC

What is significant?

The Quonset Warehouse at 20 Reeves Street, Clifton Hill.

Elements that contribute to the significance of the place include (but are not limited to):

- The form, material type and detailing of the Quonset Warehouse including original or reconstructed fenestration.

The later additions dating from c.2009-2012 are not significant.

How is it significant?

The Victoria Parade East Precinct at 205-219 Victoria Street is of local historical and rarity significance to the City of Yarra.

Why is it significant?

The Quonset Warehouse at 20 Reeves Street, Clifton Hill is historically significant as an example of a wartime prefabricated building utilised for industrial, and later commercial, use. It has a clear association with the post-World War II shortage of building materials when newly constructed or military-surplus huts were utilised for a range of government and private purposes such as migrant accommodation, churches, light industry, storage, agricultural use and community gathering spaces (Criterion A).

The Quonset Warehouse at 20 Reeves Street, Clifton Hill is a rare example of a prefabricated military building in the City of Yarra. Once commonly utilised practice across Victoria in the post-war period to address building restrictions and to curtail shortages in building supplies, examples of these prefabricated structures are becoming increasingly rare and there are no other known examples within the City of Yarra. The place remains sufficiently intact to clearly demonstrate this rare building type in the municipality (Criterion B).

Primary source:

Alexandra Parade: Heritage Analysis and Recommendations, GJM Heritage, August 2020

Draft

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BUILT FORM REVIEW:

VICTORIA PARADE

HERITAGE ANALYSIS & RECOMMENDATIONS

PREPARED FOR:	City of Yarra
DATE:	November 2020
FILE:	2020-008

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This report is limited in its scope to consideration of post-contact cultural heritage and does not provide advice on any Aboriginal cultural heritage significance. The subject site forms part of the 37.5% of Victoria where there is currently no formally recognized Traditional Owner groups. Nonetheless, we acknowledge the Traditional Owners of the land at this place and pay our respects to their Elders past, present and emerging. For more information, please visit https://www.aboriginalvictoria.vic.gov.au

PROJECT TEAM

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Cover Image: *the south side of Victoria Parade looking east from the intersection with Napier Street*

GLOSSARY OF ABBREVIATIONS

Appendix 8	Incorporated Document 'City of Yarra Review of Heritage Overlay Areas 2007: Appendix 8 (revised May 2018)'
C1Z	Commercial 1 Zone
C2Z	Commercial 2 Zone
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
GRZ	General Residential Zone
HO	Heritage Overlay
MAC	Major Activity Centre
MUZ	Mixed Use Zone
NAC	Neighbourhood Activity Centre
NRZ	Neighbourhood Residential Zone
PPN	Planning Practice Note
VHR	Victorian Heritage Register

All photos taken by GJM Heritage in March 2020 unless otherwise stated.

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EXECUTIVE SUMMARY

Hansen Partnership, on behalf of the City of Yarra (Council), has prepared a Built Form Review of three precincts: Alexandra Parade, Victoria Parade and Fitzroy West. This forms part of a larger project that considers built form controls for commercial high streets and mixed use / commercial zoned precincts within Fitzroy, Collingwood and (part) Clifton Hill (Figure 1). The purpose of this Built Form Review work is to determine where and how new development can appropriately occur. The desired built form outcomes will be translated into Design and Development Overlay (DDO) controls for the study area.

This report specifically considers the Victoria Parade Precinct (also referred to as the 'study area' in this report) which includes land within the southern part of Collingwood and Fitzroy. The heritage advice contained within this report will help ensure that the Built Form Review and the subsequent DDO controls appropriately respond to the heritage fabric and values of the study area.

This advice then considers the built form parameters that are required to ensure the values of heritage places within the Victoria Parade Precinct are appropriately managed and protected, and that good heritage outcomes are being achieved for potential new development or redevelopment on land subject to, or abutting, the Heritage Overlay.

Part II of this report provides an analysis of gaps, inconsistencies and inaccuracies in the current heritage controls within the study area and provides recommendations for addressing these issues. This has resulted in the assessment of one potential heritage place, a row of late nineteenth century shop/residences at 205-219 Victoria Parade, Collingwood.

This Heritage Analysis and Recommendation Report is presented in three parts:

Part I: The Project and Planning Framework

Part I introduces the project, the methodology applied to the project and the planning framework in which the project is occurring.

Part II: Heritage Analysis

Part II contains a heritage analysis of the study area. It details the heritage qualities and values of each precinct, identifies any gaps or issues in the existing heritage framework and provides recommendations for appropriately managing heritage places within the study area.

Part III: Built Form Recommendations

Part III contains specific built form recommendations to ensure heritage places and values are appropriately managed within a changing urban context. The specific recommendations are informed by modelling prepared by Hansen Partnership.

***Figure 1**: Brunswick and Smith Street Study Area*
Source: 'Figure 2: Brunswick & Smith Street Built Form Review - Precincts' from the Victoria Parade Built Form Framework (Hansen Partnership, December 2020).

The Victoria Parade Precinct is denoted by the 'V' and is dark green in colour.

PART I: THE PROJECT AND PLANNING FRAMEWORK

1.0 INTRODUCTION

1.1 YARRA'S HIGH STREETS

The City of Yarra is endowed with one of the largest and most highly intact collections of turn of the century 'High Streets' in the State of Victoria. These High Streets include the Major Activity Centres of Swan Street and Bridge Road in Richmond, Brunswick Street in Fitzroy, Smith Street straddling the suburbs of Fitzroy and Collingwood and Victoria Street, in Abbotsford and Richmond. They also include a number of Neighbourhood Activity Centres, including Gertrude Street in Fitzroy, Johnston Street in Fitzroy & Collingwood, Rathdowne Street and Nicholson Street in Carlton North, St Georges Road in Fitzroy North, and Queens Parade in Fitzroy North & Clifton Hill.

These High Streets contrast with the wide boulevards of Alexandra and Victoria Parade, both of which are now multi-lane major arterial routes. These boulevards both retain their wide median strips. Unlike the more typical commercial High Street, these boulevards do not exhibit a consistency of use or built form. Nonetheless, while the built form, character and heritage values of these boulevards differ greatly over their length, the pockets of heritage buildings warrant special consideration as do the interfaces to the generally low-scale residential heritage areas they directly abut. Like the historic High Streets, it is necessary to manage the tension between the desire to retain the heritage values of these areas and meet the growth objectives of the Yarra Planning Scheme.

1.2 BRIEF DESCRIPTION OF THE VICTORIA PARADE STUDY AREA

Victoria Parade is a major arterial road running east-west connecting to Victoria Street at Nicholson Street to the west and Hoddle Street to the east. Victoria Parade forms the boundary between the City of Melbourne to the south and the City of Yarra to the north. It has a 60m wide carriageway with three lanes of traffic (plus a bus lane) running in each direction. A light-rail tram line runs within the centre of the 35m wide grassed median strip that separates the northern and southern carriageways. The median is planted with a mature avenue of Dutch Elms. Street trees are planted less regularly along the northern and southern footpaths. The north and south oriented roads do not generally align across Victoria Parade.

The study area extends along the north side of Victoria Parade from Napier Street in the west to Hoddle Street in the east, generally to the depth of one property (noting that individual properties range in depth from as little as 20m to over 100m).

The built form of the Victoria Parade Precinct is highly varied ranging from large, low-rise late twentieth century offices and showrooms towards the eastern end to highly intact turn of the century shop/residences and terraced housing at the western end, including the State heritage listed Blanche Terrace at 169-179 Victoria Parade, Fitzroy (VHR H0177-H0182) and McClelland House at 203 Victoria Parade, Fitzroy (VHR H0590). Beyond the heritage-listed shop/residences and terraced housing at the western end of the precinct, and the small run of un-listed nineteenth century shop/residences between Islington and Hoddle Streets, there is little visual

cohesion within the precinct. Approximately half the length of the precinct as it addresses Victoria Parade is (intermittently) subject to the Heritage Overlay.

Figure 2: Victoria Parade precinct – outlined in red.
Source: Nearmap, 4 June 2020

1.3 BRIEF HISTORY OF VICTORIA PARADE

This historical summary is based on the City of Yarra Heritage Review Thematic History (Allom Lovell & Associates, 1998) with additional sources as cited.

Victoria Parade was evident on James Kearney's 1855 map of Melbourne and its suburbs, extending between Nicholson Street and Hoddle Street, and marking the boundary between the early suburbs of East Melbourne to the south and Fitzroy (originally called Newtown) and Collingwood to the north.

The western end of Victoria Parade rises to what was originally called Eastern Hill. This elevated area was where many of Melbourne's wealthier and more influential early residents settled and built fine, often architect-designed houses (Lewis 1989:21). Many residences, medium to large in scale, were built fronting Victoria Parade (particularly the western end) from the 1860s and throughout the Victorian period, often in the terrace form which dominated Fitzroy from the 1850s (Lewis 1989:21). Evidence of this remains within the study area at Blanche Terrace (1867; 169-179 Victoria Parade, Fitzroy), Russell House (1862; 181 Victoria Parade, Fitzroy), Alexandra Terrace (1864-65; 145-149 Victoria Parade, Fitzroy), the pair of terrace houses at 163-165 Victoria Parade, Fitzroy (1868), and Irwell Terrace (1868; 19-23 Victoria Parade, Collingwood). These residences within the western portion of the study area were located amongst a small number of doctors, businesses and trades in the 1860s (S&Mc).

***Figure 3**: Looking east down Victoria Parade, showing Fitzroy and Collingwood to the left. Photo dated c1905-c1910 (COYL, Image CL PIC 558).*

***Figure 4:** Looking east down Victoria Parade, near the corner of Cambridge Street, Collingwood. Photo dated c1906-c1918 (COYL, Image CL PIC 594)*

Down the hill, the eastern portion of Victoria Parade was largely developed by 1858, occupied by buildings of various form and scale, as evident on Clement Hodgkinson's 1858 map of East Collingwood. The 1860 Sands & McDougall Directory indicates that this part of the study area, east of Wellington Street, comprised a high number of commercial buildings and a majority of occupants practicing trades – carpenters, butchers, plumbers, bricklayers, carters and bootmakers.

The proceeding decades saw the erection of the former Ebenezer Baptist Church (1870; 159 Victoria Parade, Collingwood) and further residences such as Floraston (1876; 39 Victoria Parade, Collingwood), McLelland House Terrace (1882; 203 Victoria Parade, Fitzroy) and Portia (1889; 15-17 Victoria Parade, Collingwood) within the study area. Commercial endeavours of the 1880s included the Prince Patrick Hotel and shops (1887; 135-141 Victoria Parade, Collingwood) and the

former John Franklin Hotel (1880s; 75a-77 Victoria Parade, Collingwood). Some light industrial development occurred immediately north of Victoria Parade including the former Smalley & Harkness Boot Factory (1898; 16 Islington Street, Collingwood). A tramline was established along Victoria Parade in the 1880s (and a new electrified line with overhead tram poles was constructed down the centre of the road reserve in the 1920s) (Vines 2011:24).

While the precinct was predominantly developed during the Victorian period, some construction occurred in the first half of the twentieth century. An example is the former Melbourne After Care Home (1926, 1936; 45-47 Victoria Parade, Collingwood), built during the Interwar period. Since the 1970s, the eastern portion of the precinct towards Hoddle Street has seen an increase in development, with a mix of residential, and often large-scale, commercial and office buildings erected.

Sources

Allom Lovell & Associates (1998), City of Yarra Heritage Review, Thematic History.

City of Yarra Libraries (COYL), online picture collection.

Hodgkinson, Clement, Noone, John, and Wilkinson, John, (1858), *Plan shewing the streets and buildings in existence in East Collingwood on January 1st 1858 : with schedule of heights of bench-marks above low water datum at Queen's wharf* [cartographic material]. Printed by De Gruchy & Leigh [Melbourne].

Kearney, James (draughtsman), Brown, James D. and Tulloch, David (engravers) (1855), *Melbourne and its suburbs* [cartographic material].

Lewis, Miles (1989) 'The First Suburb', in Fitzroy History Society & Cutten History Committe, *Fitzroy : Melbourne's first suburb*, South Yarra [Vic].

Sands & McDougall Directory (S&Mc).

Vines, Gary (2011), *Melbourne Metropolitan Tramways Study, Heritage Places*

1.4 SCOPE OF THE HERITAGE ANALYSIS & RECOMMENDATIONS REPORT

GJM Heritage has been commissioned to provide a detailed analysis of the heritage considerations for the Brunswick and Smith Street Built Form Review project area and to detail recommendations for the future management of these areas in the context of potential new development. This report considers the Victoria Parade Precinct and has been prepared simultaneously with those considering the Alexandra Parade and Fitzroy West Mixed Use precincts.

The following precincts have previously been considered in the *Brunswick and Smith Street Built Form Review*, GJM Heritage, 25 November 2019:

- Brunswick Street Activity Centre Spine
- Town Hall Mixed Use Precinct
- Smith Street Activity Centre Spine
- Johnston Street Activity Centre Spine
- Fitzroy East Mixed Use Precinct.

The proposed Gertrude Street Precinct and the MUZ area south of Gertrude Street between Young and Little Napier Streets was reviewed through the *Gertrude Street Built Form Framework: Heritage Analysis & Recommendations,* GJM Heritage, 9 December 2019.

The Collingwood Mixed Use Precinct was considered as part of a separate study: *Collingwood Mixed Use Pocket Heritage Analysis & Recommendations*, GJM Heritage, 6 June 2018.

The purpose of our advice as part of this project is to ensure that any DDO controls arising from the Built Form Review take proper account of the heritage values of the precincts and individual buildings within the study area, in order to ensure appropriate weight is given to heritage when considering new development within the Victoria Parade Precinct.

The analysis within this report builds on the previous built form reviews and heritage analysis work conducted within the City of Yarra, and considers the parameters necessary to appropriately manage increased commercial and residential development within the Victoria Parade Precinct.

1.5 METHODOLOGY

The key background documents on which the heritage analysis is based are:

- Yarra Planning Scheme Heritage Overlay Maps 5 HO and 6HO
- Relevant Statements of Significance for heritage places and precincts within the study area and associated heritage studies
- Incorporated Document 'City of Yarra Review of Heritage Overlay Areas 2007: Appendix 8 (revised May 2018)' (Appendix 8)
- City of Yarra Heritage Grading Maps

The above documents have been reviewed in the context of the following clauses of the Yarra Planning Scheme and the relevant Planning Practice Notes (PPNs) published by the Department of Environment, Land, Water and Planning (DELWP):

- The relevant provisions of the Yarra Planning Scheme, in particular, are:
  - Clause 15.03-1S 'Heritage conservation'
  - Clause 21.05-1 'Heritage'
  - Clause 22.02 'Development Guidelines for Sites Subject to the Heritage Overlay'
  - Clause 22.10 'Built Form and Design Policy'
  - Clause 43.01 'Heritage Overlay'
  - Clause 43.01 'Schedule to the Heritage Overlay'
  - Clause 71.02-3 'Integrated Decision Making'
- PPN 1: *Applying the Heritage Overlay* (August 2018) (PPN1)
- PPN 59: *The role of mandatory provisions in the planning schemes* (September 2018) (PPN59)
- PPN 60: *Height and setback controls for activity centres* (September 2018) (PPN60).

We note that the Minister for Planning has authorised the preparation and exhibition of Amendment C269yara to introduce a new Municipal Planning Strategy, local policies and supporting documents into the Yarra Planning Scheme. This amendment has gone on exhibition but is at an early stage of the amendment

process, therefore the advice provided in this report has been informed by the relevant existing Local Planning Policy, in particular clauses 22.02, 22.03 and 22.10.

The following Planning Panels Victoria (Panel) reports are relevant to the implementation of the Built Form Review, particularly as many consider the appropriateness of DDOs (containing both mandatory and discretionary provisions) within activity centres (or in the case of Melbourne Amendment C240, the Capital City Zone) that are also subject, in part, to the Heritage Overlay:

- Boroondara C108 'Neighbourhood Centres and Commercial Corridors' (26 February 2014)
- Moreland Planning Scheme Amendment C134 'Brunswick Activity Centre' (15 May 2015)
- Melbourne Planning Scheme Amendment C240 'Bourke Hill' (4 May 2015)
- Bayside Planning Scheme Amendments C113, C114 and C115 'Mandatory provisions for the Sandringham Village, Bay Street and Church Street Activity Centres' (14 January 2015)
- Whitehorse Planning Scheme Amendment C175 'Box Hill Metropolitan Activity Centre' (6 October 2017).
- Stonnington Planning Scheme Amendment C223 'Glenferrie Road and High Street Activity Centre' (15 December 2017)
- Darebin Planning Scheme Amendment C161 'Fairfield Village' (3 December 2018)
- Yarra Planning Scheme Amendment C220 'Johnston Street Built Form Controls' (22 February 2019)
- Melbourne Planning Scheme Amendment C308 'Central Melbourne Urban Design' (16 May 2019)
- Melbourne Planning Scheme Amendment C258 'Heritage Policies Review' (21 May 2019)
- Yarra Planning Scheme Amendment C231 'Queens Parade Built Form Review' (31 October 2019)
- Yarra Planning Scheme Amendment C191 'Swan Street Built Activity Centre' (15 October 2020).

The following reports have also informed this study:

- 'Review & Development of the City of Yarra Landmarks Policy – Landmarks & Views Assessment' prepared by Ethos Urban for the City of Yarra, October 2019.
- 'Fitzroy & Collingwood Built Form Review Stage 2: Victoria Parade Built Form Framework', Hansen Partnership, April 2020.
- Previous heritage built form reports and analysis prepared by GJM Heritage for Brunswick and Smith Street and Queens Parade study areas.

We have approached the preparation of our heritage analysis as follows:

1. Completion of a desktop review of the above listed documents, heritage mapping and grading information, and the Statements of Significance for

heritage places within the study area, including those places included in the Victorian Heritage Register (VHR). The extent of the Heritage Overlays were cross-checked against Google Streetview and VicPlan. This preliminary review familiarised the project team with the heritage fabric of the study area prior to fieldwork being undertaken.

2. Completion of fieldwork by Jim Gard'ner. All buildings and structures within the study area were inspected from the public realm with particular attention paid to the presentation of heritage buildings to the public realm (principally the street frontage). The rear and side interfaces to the neighbouring residential areas subject to the Heritage Overlay were also considered, where relevant. The purpose of the fieldwork was to:
   - Review the suitability of the extent of the existing Heritage Overlays and to identify if gaps existed.
   - Review the suitability of the existing Statements of Significance for heritage places against the extant heritage fabric and to identify where the statements required updating for the purposes of properly considering built form recommendations.
   - Review the extant heritage fabric against the heritage gradings contained within Appendix 8 and the Yarra Heritage Grading Map to identify any inconsistencies and inaccuracies.
   - Review the heritage buildings and streetscapes within the study area to identify the architectural and streetscape heritage features (e.g. parapets, roof forms, view lines, corner sites) that are relevant to a consideration of built form recommendations.
3. Participation in a workshop with Council and Hansen Partnership. The workshop:
   - Reviewed the proposed 'built form precincts' within the study area, characterised by existing built form characteristics.
   - Identified the desired future character of the built form precincts against heritage analysis and state and local planning policy drivers.
   - Identified local landmarks within each streetscape or precinct.
   - Tested built form parameters for new development against the existing heritage fabric utilising cross-sectional drawings with sight-lines taken at natural eye level (1.6m) on the public footpath, and 3D modelling prepared by Hansen Partnership. Views were only considered from public streets; laneway and private realm views were not assessed.
4. Finalisation of heritage recommendations for new built form parameters having considered the above.

2.0 ANALYSIS OF THE PLANNING CONTEXT

2.1 ACTIVITY CENTRE PLANNING AND HERITAGE

The *Planning & Environment Act 1987* and the Victoria Planning Provisions (VPPs) requires planning and responsible authorities to take a balanced approach to strategic and statutory planning functions that consider potentially competing objectives in an integrated manner to deliver a net community benefit for current and future generations.

The objectives of planning in Victoria as set out in Section 4(1) of the Planning and Environment Act are:

- *To provide for the fair, orderly, economic and sustainable use and development of land.*
- *To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*
- *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*
- *To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*
- *To protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community.*
- *To facilitate development in accordance with the objectives set out in the points above.*
- *To facilitate the provision of affordable housing in Victoria.*
- *To balance the present and future interests of all Victorians.*

Clause 71.02-3 of the VPP addresses 'integrated decision making', and states:

> *Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social wellbeing affected by land use and development.*
>
> *Planning and responsible authorities should endeavour to integrate the range of panning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.*
>
> *Planning authorities should identify the potential for regional impacts in their decision making and coordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.*

Activity Centres that are also subject to Heritage Overlay controls, such as parts of the Victoria Parade Precinct, are an example of where the tension between competing planning objectives must be resolved in a balanced way. The Victoria Parade Precinct has excellent public transport connections, and is in close proximity to vibrant retail, commercial and hospitality centres. The precinct also includes a number of sites of various sizes that can accommodate new, larger scale, development without adversely affecting the heritage values of surrounding heritage places. In order to balance the demand for more intensive development with the management of heritage values embodied in buildings and precincts, it is considered necessary that any DDO – and the background work that underpins it – specifically includes heritage considerations.

Amendment C269 proposes to introduce Clause 11.03-1L to the Yarra Planning Scheme which provides local policy in relation to Major, Neighbourhood and Local Activity Centres and designates the majority of the northern side of Victoria Parade between Nicholson and Wellington streets as a Major Activity Centre (MAC) (Figure 5).

Figure 5. *Major and Neighbourhood Activity Centres in Fitzroy (Council endorsed version of Clause 11.03-1L)*

2.2 YARRA PLANNING SCHEME – HERITAGE PROVISIONS

Council has well-established heritage provisions within its planning scheme at Clauses 21.05-1 and 22.02. Also of relevance to the protection of the heritage values of the study area is Clause 22.03, which includes policy to protect the visual prominence of landmarks visible from within the study area and Clause 22-10 which includes policy for new development abutting land within the Heritage Overlay.

2.2.1 Heritage Policy

The relevant objective within Clause 21.05-1 'Heritage' of the Municipal Strategic Statement (MSS) is *Objective 14: To protect and enhance Yarra's heritage places.* The strategies to implement this objective are:

- *Strategy 14.1 - Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.*
- *Strategy 14.2 - Support the restoration of heritage places.*
- *Strategy 14.3 - Protect the heritage skyline of heritage precincts.*
- *Strategy 14.4 - Protect the subdivision pattern within heritage places.*
- Strategy 14.5 - *Protect the significant landscape and heritage within streets, parks, gardens, waterways or other open spaces*
- *Strategy 14.6 - Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*
- *Strategy 14.7 Protect sites of significance to Aboriginal people.*
- *Strategy 14.8 Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02.*
- *Strategy 14.9 Apply the Landmarks and Tall Structures policy at clause 22.03.*

Objective 14 and its associated strategies are considered to be generally compatible with appropriately sited and scaled higher density development within the Victoria Parade Precinct where it is subject to the Heritage Overlay. Strategy 14.3 to 'Protect the heritage skyline of heritage precincts' would not be achieved unless new upper-level development was to be of such low scale that it was fully concealed when viewed from the opposite side of the street as defined by the sightline tests described in Figures 2 and 3 of Clause 22.02. Avoiding any new visible built form above existing buildings within the Heritage Overlay - although achieving the 'best' heritage outcome - would not enable a level of development that may reasonably be expected to be achieved within this MAC, nor meet other strategic directions of the Yarra Planning Scheme. A balance therefore needs to be struck between achieving the outcome sought by Strategy 14.3 and meeting the development objectives of the City of Yarra. An acceptable heritage outcome would be one where, although new built fabric is visible above the parapets, roofline or chimneys of these buildings, the development is of a scale, setback and massing such that it retains the primacy of the heritage streetscape and avoids visually dominating the existing buildings.

Clause 22.02 'Development Guidelines for Sites Subject to the Heritage Overlay' provides detailed guidance for development of places within the Heritage Overlay, including demolition. The relevant objectives of Clause 22.02 are:

- *To conserve Yarra's natural and cultural heritage.*
- *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
- *To retain significant view lines to, and vistas of, heritage places.*
- *To preserve the scale and pattern of streetscapes in heritage places.*
- *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
- *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
- *To ensure that additions and new works to a heritage place respect the significance of the place.*
- *To encourage the retention of 'individually significant' and 'contributory' heritage places.*
- *To protect archaeological sites of cultural heritage significance.*

Again, these objectives do not preclude higher density development within the Victoria Parade Precinct with the possible exception of *'To preserve the scale … of streetscapes in heritage places'*.

The demolition policy provided at Clause 22.02-5.1 encourages the retention of 'individually significant' and 'contributory' buildings within a heritage precinct. Removal of part of a heritage place or a contributory element is contemplated if (in general terms) it can be demonstrated that the removal of the part will not adversely affect the significance of the building, or – for a contributory building – the part is not visible from the street, abutting a park or public open space.

With the exception of those heritage places included on the VHR – and therefore regulated under the *Heritage Act 2017* – the significance of the heritage buildings and precincts within the study area lies primarily in fabric visible from the public realm. Therefore, in most circumstances, the heritage controls within the Yarra Planning Scheme effectively limits the control of heritage fabric within the study area to that which is visible from the street, including primary building facades, rear laneway views (where they exist) and visible roof and chimney elements.

In relation to 'New Development, Alterations and Additions', Clause 22.02-5.7.1 sets out the following policy:

> ***General***
>
> *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
>
> - *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*

- *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
- *Be visually recessive and not dominate the heritage place.*
- *Be distinguishable from the original historic fabric.*
- *Not remove, cover, damage or change original historic fabric.*
- *Not obscure views of principle façades.*
- *Consider the architectural integrity and context of the heritage place or contributory element.*

Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.

Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.

Minimise the visibility of new additions by:

- *Locating ground level additions and any higher elements towards the rear of the site.*
- *Encouraging ground level additions to contributory buildings to be sited within the 'envelope' created by projected sight lines (see Figure 1).*
- *Encouraging upper level additions to heritage places to be sited within the 'envelope' created by projected sight lines (for Contributory buildings refer to Figure 2 and for Individually significant buildings refer to Figure 3).*
- *Encouraging additions to individually significant places to, as far as possible, be concealed by existing heritage fabric when viewed from the front street and to read as secondary elements when viewed from any other adjoining street.*

Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.

The policy for full or partial concealment of rear additions to residential buildings as described in Figures 2 and 3 of the General Policy at Clause 22.02 is modified by the Specific Requirements at Clause 22.02-5.7.2 that applies to corner sites and sites with dual frontages, and industrial, commercial and retail heritage places:

Corner Sites and Sites with Dual Frontages

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

Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection.

...

Industrial, Commercial and Retail Heritage Place or Contributory Elements

Encourage new upper level additions and works to:

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

The specific provisions prevail over the general policy where there is a conflict or inconsistency. This establishes an expectation that new development behind industrial, commercial and retail buildings within the Heritage Overlay is not going to be fully or substantially concealed from public realm views. In addition, it should be noted that Victoria Parade, being a boulevard with multi-lane carriageways and a broad median strip, is 60m wide (building line to building line) where the residential examples shown in Figures 2 and 3 of Clause 22.02-5.7.1 show a sightline test from across an approx. 10m wide residential street. In effect, the wider the street, the more visible a new rear development will be.

Although a greater level of concealment would generally provide a better heritage outcome, this specific sightline-based guidance in the heritage policy is designed to preserve and enhance the character and appearance of predominantly one and two-storey dwellings within more typical narrow residential streets and is not readily applied to the wider form of Victoria Parade.

It is also considered that the policy at 22.02-5.7.1 to 'Discourage elements which ... are not contemporary with the era of the building such as ... reflective glass, glass balustrades and pedestrian entrance canopies' may not achieve an appropriate urban design and architectural outcome within a commercial and industrial setting such as that present at the Alexandra Parade Precinct. In such areas, a 'contrasting' or 'interpretative' design approach for new taller development above the heritage building is likely to be more recessive than a 'respectful' or 'historicist' one that would lead to the new additions inappropriately mimicking the historic form and potentially being more visually intrusive.

2.2.2 Landmarks and Tall Structures

Clause 22.03 – 'Landmarks and Tall Structures' identifies a number of landmark buildings and advertising signs to which views should be protected. None of the landmarks and tall structures are located within the study area, nor does the study area provide any 'primary' or 'secondary' views of these structures as defined by the *Landmarks & Views Assessment* (Ethos Urban, October 2019).

2.2.3 Heritage Overlay

The head heritage provision of the VPP, Clause 43.01 'Heritage Overlay', has the following purpose:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

Clause 43.01-8 sets out 'Decision Guidelines' – in addition to those included in Clause 65 – that the Responsible Authority must consider before determining a permit application. These are:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.*
- *Any applicable heritage design guideline specified in the schedule to this overlay*
- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
- *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed subdivision will adversely affect the significance of the heritage place.*
- *Whether the proposed subdivision may result in development which will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the lopping or development will adversely affect the health, appearance or significance of the tree.*

- *Whether the location, style, size, colour and materials of the proposed solar energy facility will adversely affect the significance, character or appearance of the heritage place.*

While some of these considerations are not obviously consistent with the addition of higher density development behind heritage buildings, the first purpose of 43.01 and the first decision guideline encompasses the whole Municipal Planning Strategy and the Planning Policy Framework (integrated decision-making). Therefore, a balance must be struck by the Responsible Authority between achieving the objectives of the Heritage Overlay and meeting the objectives of other parts of the VPPs including Activity Centre policy and commercial zoning. There is established precedent for new rear development to be accommodated behind heritage buildings in commercial precincts throughout inner Melbourne without substantially compromising the identified heritage values of these heritage places.

3.0 HERITAGE IN DESIGN AND DEVELOPMENT OVERLAYS – PANEL FINDINGS

Planning Panels Victoria has considered a number of Planning Scheme Amendments that are of particular relevance to this project: Bayside Amendments C113, C114 and C115, Boroondara C108, Darebin Amendment C161, Moreland Amendment C134, Melbourne Amendments C240, Stonnington Amendment C223, Whitehorse Amendment C175 and Yarra Amendments C220, C231 and C191.

Panels for these Amendments considered the appropriateness of mandatory controls in the context of PPN59 and, in their recommendations, provided guidance on which circumstances mandatory controls should be applied. In response to submissions, they also considered the issue of whether or not the DDO control should include objectives to protect heritage or whether this should be the sole domain of the Heritage Overlay provisions. In addition to these panel reports, Amendment C123 to the Banyule Planning Scheme, approved via ministerial intervention, provides further instruction as to the role of mandatory controls.

These reports also provide useful guidance on the form and wording of DDO controls.

In summary, Panel has concluded that:

- The Heritage Overlay identifies what is significant within an Activity Centre.
- Heritage is an appropriate issue for DDOs to provide guidance on to inform future development.
- Mandatory controls should be used only in exceptional circumstances and their application should be guided by PPN59 and PPN60.
- Formulae defining the proportion of new built form that can be viewed above the street wall is an appropriate mechanism for informing the design and massing of new built form.

In this project, the approach taken in the formulation of the built form controls to manage development affecting heritage places is to complement existing policy. Clause 22.02 - 'Development Guidelines for Sites Subject to the Heritage Overlay' and relevant parts of Clause 22.10 – 'Built Form and Design Policy' have been taken as the starting point for the development of these complementary controls and policy.

Where existing policy is considered to be satisfactory, no additional policy has been recommended. However, specific policy has been recommended where it is considered necessary to provide guidance to recognise the current role of the Victoria Parade Precinct as a major boulevard and to enable its future development while protecting their heritage values.

A discussion of the most relevant of the Panel reports is provided below, and at Section 3.9 the recommendations for each panel are summarised with comment on the implications of the outcome.

3.1 YARRA PLANNING SCHEME AMENDMENT C231

GJM Heritage prepared the Queens Parade Built Form Heritage Analysis and Recommendations (11 December 2017) which informed C231yara. C231yara seeks to apply built form controls in the form of DDOs to Queens Parade, Fitzroy North and Clifton Hill and amend Heritage Overlay controls that apply within the study area. Precinct 4 within DDO20 covers the commercial shopping strip that forms part of the Queens Parade Neighbourhood Activity Centre. Like Queens Parade, Victoria Parade as a 60m wide boulevard albeit without the same degree of consistency of built form found within that commercial High Street.

Of relevance to the Alexandra Parade Precinct, the Panel for Amendment C231 found that the strategic work undertaken in support of the Amendment was strong and that it assisted in justifying the majority of the built form parameters recommended in the DDOs, particularly with respect to mandatory controls. At p29 of the Panel Report, the Panel notes that:

> *Exceptional circumstances exist for the application of mandatory controls for development as the QPAC (Queens Parade Activity Centre) includes a number of significant and contributory heritage places and heritage fabric set within a consistent streetscape form.*

The Panel recognised that the wider, boulevard context would lead to a high visibility of upper-level development, which in turn warranted the application of height limits, and linked the use of mandatory (instead of preferred) controls to the consistency of the heritage streetscape.

The Panel supported the mandatory upper-level setback of 8m within the Council preferred DDO and the combination of mandatory and preferred height controls where this provided certainty where distinctive heritage fabric warranted greater protection. It also recognised that an Activity Centre with diverse built form can have areas of little change where growth can be accommodated elsewhere within the Centre. Further, the Panel agreed that it was appropriate for the proposed mandatory built form controls within DDO16 to protect the key views of local landmarks and those identified in Clause 22.03.

3.2 YARRA PLANNING SCHEME AMENDMENT C220

Johnston Street in Collingwood and the western part of Abbotsford (west of the railway viaduct) is a highly intact, predominantly Victorian/early Edwardian-era streetscape covered by the Heritage Overlay. Those parts of Victoria Parade included within the Heritage Overlay have similarly high proportion of 'Contributory' and 'Individually Significant' buildings with a high level of integrity, and similar existing street wall heights (generally between 8m and 11m) as Johnston Street.

C220yara introduced built form controls along Johnston Street in the form of DDO15. The Panel report recommended the inclusion of the following DDO objective which is also relevant to those parts of Victoria Parade subject to the Heritage Overlay:

To preserve the valued heritage character of the streetscape and ensure that the predominantly two storey (heritage scale) street-wall remains the visually prominent built form of Johnston Street west of the railway line bridge...

The Panel report provides commentary which is of relevance to a consideration of the proposed built form controls for Victoria Parade. In particular, the Panel stated:

In urban design terms, the 6 metre setback will retain the 'human scale' of Johnston Street, secure the distinction between the street wall and upper levels and will reduce the potential for overshadowing and adverse wind conditions.

...

The Panel does not agree that less significant sections [of Johnston Street] warrant a different treatment. Less significant areas equally deserve to exhibit the overall urban design outcome: a strong street wall with a distinct setback to the mid level form.

To achieve these objectives Panel recommended that a building envelope requirement be established that, rather than being based on a sightline test from the opposite side of the street new, required new development to be within a 45° 'angular plane' drawn from the maximum street wall height. In combination with upper-level front setbacks and maximum building heights the angular plane creates a further upper-level setback consistent with the application of the policy objective at Clause 22.02-5.7.1 that each higher element to industrial, commercial and retail buildings should be set further back from the lower heritage built form.

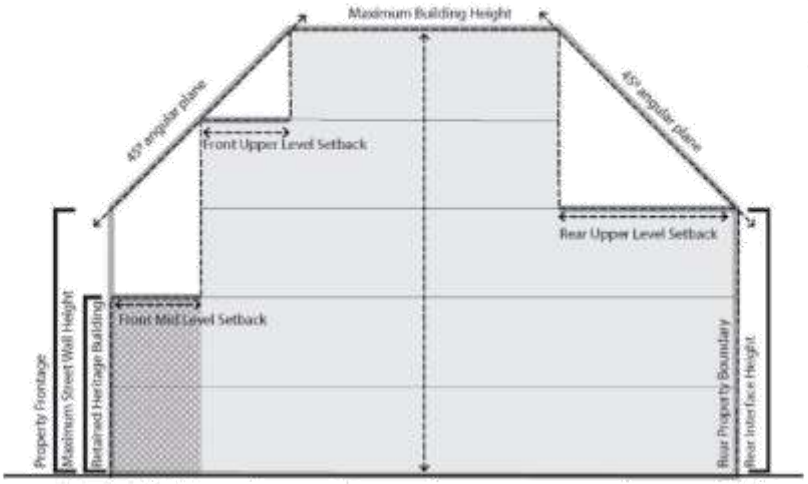

***Figure 6**: Building envelope requirement – Heritage Building (Figure 1 in Schedule 15 to Clause 43.02 Design and Development Overlay).*

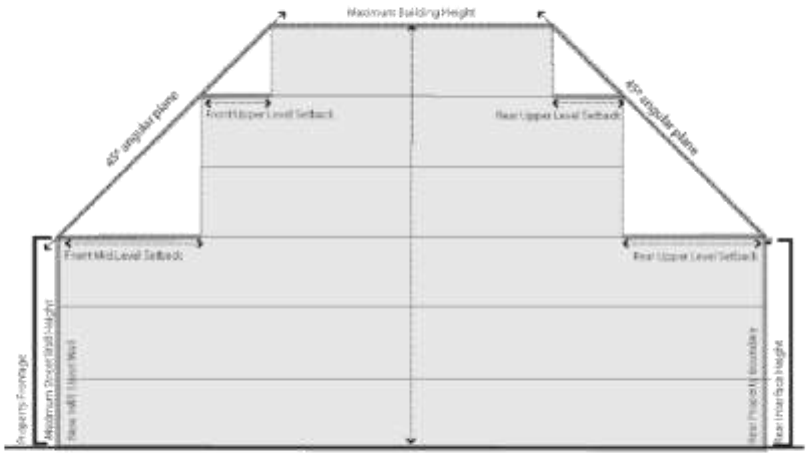

Figure 7: Building envelope requirement – Infill Building (Figure 2 in Schedule 15 to Clause 43.02 Design and Development Overlay).

3.3 YARRA AMENDMENT C191

Swan Street, Richmond is a Major Activity Centre with a highly intact turn of the century 'High Street' occupying a large proportion of its length, as well as smaller precincts and individual heritage places dispersed along its full extent.

Amendment C191yara proposes to introduce four DDOs (DDO25, DDO26, DDO27 and DDO28) to the Activity Centre, with the different controls reflecting the different existing physical conditions and the potential development opportunities evident throughout the Activity Centre.

In its report of 15 October 2020, the Panel supported the use of mandatory controls for street wall and 6m upper-level setbacks for individually significant heritage places and intact heritage streetscapes, as well as mandatory controls for overall building heights in intact heritage streetscapes. Mandatory controls were also supported to protect views to local landmarks.

For parts of the Activity Centre that present a less consistent and more diverse built form expression, discretionary controls were considered to be appropriate.

In contrast to the Panel considering C220yara, the C191yara Panel considered that it was unnecessary to provide additional parameters to guide the form of upper level development, instead finding that the combination of specified heights, setbacks and design requirements for new upper-level development to be "visually recessive", were sufficient.

3.4 MORELAND AMENDMENT C134

Sydney Road, Brunswick is a Major Activity Centre with a highly intact, predominantly Victorian streetscapes that is subject to the Heritage Overlay. Gazetted on 11 August 2016, C134more introduced DDO18, DDO19 and DDO20. DDO18 set mandatory street wall heights on Sydney Road north of Brunswick Road of between 8m and 11m.

DDO18 provides a preferred minimum 5m setback for development above the street wall and to establish a preferred ratio of ¾ : ¼ street wall to new built form through the following design objective:

- *Be designed to ensure that it occupies no more than one quarter of the vertical angle defined by the whole building in the view from an eye-level of 1.7 metres on the opposite side of the street, as illustrated in Figure 1 below.*

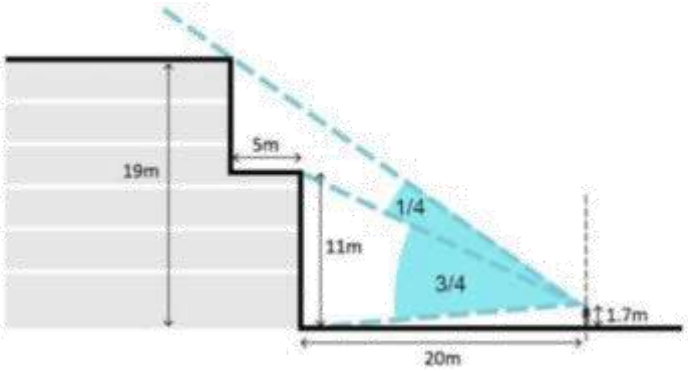

***Figure 8**: Upper-level setbacks along Sydney Road (Figure 1 in Moreland DDO18).*

DDO18 also provides a useful model for dealing with upper-level development where an existing heritage building in the heritage streetscape has a street wall height of less than the 11m street wall height provided in that control:

- *Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons new development may occupy more than one quarter of the vertical angle defined by the whole building outlined in Figure 1* [Figure 8 of this report] *above.*

3.5 BOROONDARA AMENDMENT C108

The Panel considering C108boro discussed the use of mandatory street wall height, upper-level setbacks and overall heights across 31 Neighbourhood Activity Centres and three commercial corridors (Camberwell Road/Burwood Road and Canterbury Road).

In its report dated 26 February 2014, the Panel noted its strong support for the protection of heritage assets in Boroondara and recommended reinstatement of policy in the exhibited Amendment that encouraged new development on or adjoining a heritage place to be moderated. In particular, the Panel recommended that policy guidance be included that:

> *The combination of the height, setbacks and design treatment of new buildings should ensure a heritage place on or adjoining the site is not overwhelmed or dominated.*

The Panel also considered the use of mandatory height and setback controls, and recognised that the version of *Plan Melbourne* at that time foreshadowed stronger policy support for the use of mandatory provisions in neighbourhood centres (and residential areas) to increase planning certainty.

The Panel report recognised that mandatory provisions that prescribed standards without a capacity for departures have been supported in areas of consistently high heritage value with consistent character. While acknowledging the heritage values and 'main street' character of the Neighbourhood Activity Centres subject to C108, the Panel also recognised that new development will be visible behind the retained façades – particularly from oblique views – and that invisibility of upper-level development is either unreasonable or not necessary to maintain the primacy of the street wall.

In conclusion, the Panel accepted some use of mandatory controls within Boroondara's neighbourhood centres , but not in the commercial corridors:

> *The Panel recognises that Plan Melbourne foreshadows stronger policy support for the use of mandatory provisions in neighbourhood centres (and residential areas) to increase certainty. The Panel considers the combination of the street wall and upper level setbacks is critical in neighbourhood centres to maintain the established main street character and in these situations mandatory controls can be justified. However, we consider development with elements that exceed the nominated height and/or adopt alternative setbacks should not be precluded as they may produce better outcomes in some circumstances. The overall maximum height limits should therefore remain discretionary to allow for such circumstances.*

It was the Panel's conclusion that mandatory street wall heights which reflected the dominant character of the neighbourhood centres were acceptable (either 8m or 11m, depending on the context). It also found that if mandatory upper-level setbacks were to be adopted, they should be sufficient to ensure that in most cases the upper-storey will be clearly distinguishable from the street wall of the heritage building and be a recessive element in neighbourhood centres streetscapes. To achieve this, the Panel identified 5m as being an appropriate mandatory minimum setback for upper-level development in the context of Boroondara's Neighbourhood Activity Centres.

3.6 WHITEHORSE AMENDMENT C175

C175whit sought to implement the *Box Hill Metropolitan Activity Centre Built Form Guidelines* (Hansen Partnership, 2016) by rezoning land, introducing the Built Form Guidelines as a reference document and applying a new DDO Schedule to introduce built form controls. In its consideration of this Amendment, the Panel Report dated 6 October 2017 stated:

> *The Panel would have benefited from a more sophisticated analysis of the heritage precinct that utilised three-dimensional modelling, sight lines and view-sheds to help understand the rationale for the proposed heritage related controls. Without this basic information, it is difficult to determine whether the proposed controls are appropriate...*

and concluded that in the absence of this modelling:

- *The Built Form Responses regarding Heritage should not proceed in their current form.*

The absence of 3D modelling, and sight line and view-shed analysis in relation to those areas of the Box Hill Activity Centre that are subject to the Heritage Overlay appears to have been critical in Panel recommending that the proposed built form controls not be applied to address heritage.

3.7 STONNINGTON AMENDMENT C223

The Glenferrie Road and High Street Major Activity Centre encompasses the two linear commercial strips of Glenferrie Road and High Street in Malvern as well as two peripheral areas. The Heritage Overlay, which covers all of Glenferrie Road and most of High Street, acknowledges the area for its '*metropolitan significance as one of the major strip shopping centres to have retained its role into the late twentieth century, and for the quality and integrity of its Victorian, Federation and Interwar building stock*'.[1] C223ston sought to apply new built form provisions through the application of DDO19 to the entire Activity Centre, with precincts A and B covering the commercial and heritage precincts of Glenferrie Road and High Street respectively.

While the Amendment proposed an 8-10m setback above the street wall for precincts A and B, the Panel found it to be effectively a concealment of upper-level additions, supporting instead a 5m setback as adequate to respect heritage values without removing development capacity. This was derived from the precedent in the Boroondara Planning Scheme and was seen to equate to the typical first room of a Victorian-era building. The Amendment was otherwise generally supported by the Panel as an appropriate balance between protecting heritage values and enabling growth. Discretionary preferred maximum building heights between 14.5 metres (4 storeys) and 21 metres (6 storeys) were supported through precincts A and B.

The Panel also reviewed the drafting of discretionary and mandatory provisions, addressing the appropriateness of the terms 'should' and 'must'. The Panel noted that confusion arose from the DDO parent clause, and until such time as the clause is redrafted, the term 'must' is to be used for schedule requirements with the addition of further clarification if it can be varied with a permit.

3.8 DAREBIN AMENDMENT C161

C161dare proposed to implement the '*Fairfield Village Heritage Assessment, 2017*' (Heritage Intelligence) and '*Fairfield Village Built Form Guidelines 2017*' (Hansen Partnership) through the application of Heritage Overlay (HO313) and DDO21 to the Fairfield Village Neighbourhood Centre. DDO21 created two sub precincts: Area 1 to

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[1] Retrieved from Victorian Heritage Database, 18 January 2018 (https://vhd.heritagecouncil.vic.gov.au/places/31530)

be applied to the proposed HO313 precinct; with the remainder of the Neighbourhood Centre covered by Area 2.

The Panel found the application of the Heritage Overlay in conjunction with the DDO would enable the precinct *'to support a variety of housing typologies at increased densities'* in a way that *'allows the heritage place to be identified and understood'*. Further, the Panel supported the application of a mixture of mandatory and discretionary controls to Area 1 of the DDO in the form of:

- Mandatory maximum building heights at 14.5m and 17.5m (four and five storey), triggered by a lot width of 24m for five-storey.
- Mandatory maximum street wall height to be the greater of 8.5m or the adjacent street wall.
- Discretionary minimum front setbacks above the street wall at generally 4m, and 8m if constructing to a fifth level.
- The addition of a 3m side setback at the fifth-floor level – introduced as a discretionary provision to prevent the creation of a dominating wall of development along Station Street.

3.9 SUMMARY

Table 1 – Summarised recommendations and implications

YARRA AMENDMENT C231	
Recommendation	*Implications*
Significant and contributory heritage places and heritage fabric set within a consistent streetscape form.	Gertrude Street displays similar levels of consistency in heritage streetscape to warrant mandatory controls.
8m setbacks.	An 8m mandatory setback can be justified for highly intact heritage streetscape.
Combination of preferred and mandatory heights.	The use of a balanced combination of preferred and mandatory heights is appropriate to respond to varied conditions.
Limiting heights within heritage precincts while allowing housing capacity to be met elsewhere in the broader precinct.	The most highly intact areas warrant low heights to protect heritage streetscapes.
YARRA AMENDMENT C220	
Recommendation	*Implications*
A 6m upper-level setback will retain the 'human scale' of Johnston Street, secure the distinction between the [heritage] street wall and upper-levels.	A 6m mandatory upper-level setback is an appropriate minimum.
The less significant sections of Johnston Street do not warrant lesser built from controls.	The same controls should be applied within the DDO irrespective of the significance of the street.

A preferred ratio of 2/3:1/3 street wall to new upper-level built from should be replaced with a 45 degree angular plane.	A 45 degree angular plane above a nominal 11m street wall height can inform the preferred mid-level built form rather than a ratio based sightline test.
In combination with upper-level front setbacks and maximum building heights the angular plane creates a further upper-level setback from the mid-level setback.	Upper-level development should be set further back from the street wall consistent with the guidance at 22.02-5.7.2.
YARRA AMENDMENT C191	
Recommendation	*Implications*
Combination of preferred and mandatory heights.	The use of a balanced combination of preferred and mandatory heights is appropriate to respond to varied conditions.
Limiting heights within heritage precincts while allowing housing capacity to be met elsewhere in the broader precinct.	The most highly intact areas warrant low heights to protect heritage place. Larger scale development should be encouraged outside these heritage places.
A 6m upper-level setback is necessary to avoid facadism and to retain the prominence of the heritage street wall	A 6m mandatory upper-level setback is an appropriate minimum for site-specific Heritage Overlays and intact heritage streetscapes.
The combination of upper-level front setbacks, maximum building heights and design requirements in respect of upper-level development is sufficient to manage taller built form in heritage contexts.	Further guidance in the form of a sight-line test or angular plane formulae is not warranted. Note: this conclusion differs from that of the Panel that considered C220yara.
MORELAND AMENDMENT C134	
Recommendation	*Implications*
The application of mandatory street wall heights to Sydney Road is justified.	Provides a justification for the application of mandatory street wall heights within the Study Area.
Established a preferred ratio of ¾ : ¼ street wall to new upper-level built form.	The use of a sightline test to inform new upper-level built from is appropriate.
BOROONDARA AMENDMENT C108	
Recommendation	*Implications*
The combination of the height, setbacks and design treatment of new buildings should ensure a heritage place on or adjoining the site is not overwhelmed or dominated.	The DDO can included height, setback and design treatment controls to avoid new development dominating heritage places.
New development will be visible behind the retained façades – particularly from oblique views – and that invisibility of	Some visibility of new upper-level development (including from oblique

upper-level development is either unreasonable or not necessary to achieve the primacy of the street wall.	views) will be acceptable and complete concealment is not necessary.
Mandatory upper-level setbacks to the commercial corridors are justified.	Provides a justification for the application of mandatory upper-level setbacks within the study area.
WHITEHORSE AMENDMENT C175	
Recommendation	***Implications***
In the absence of modelling, built form heritage controls should not proceed.	That 3D modelling, sightlines and viewshed analysis should inform built form controls.
STONNINGTON AMENDMENT C223	
Recommendation	***Implications***
Panel supported a 5m upper-level setback instead of the 8-10m setbacks proposed that effectively concealed upper-level development.	There is an expectation that the visibility of some new upper-level built from will be acceptable and complete concealment is not necessary.
Application of the words 'should' and 'must' within controls.	Use 'should' used for preferred controls and 'must' for mandatory controls.
DAREBIN AMENDMENT C161	
Recommendation	***Implications***
The application of mandatory building heights to Fairfield Village is justified.	Provides a justification for the application of mandatory building heights within the Study Area.
The application of mandatory street wall heights to Fairfield Village is justified.	Provides a justification for the application of mandatory street wall heights within the Study Area.

4.0 MANDATORY AND DISCRETIONARY HEIGHT AND SETBACK CONTROLS

Planning Practice Note 59: The Role of Mandatory Provisions in Planning Schemes (September 2018) (PPN59) notes that the VPPs are predominantly performance-based and that mandatory provisions are the exception. The PPN sets out a series of five criteria against which to test proposed mandatory provisions, being:

- Is the mandatory provision strategically supported?
- Is the mandatory provision appropriate to the majority of proposals?
- Does the mandatory provision provide for the preferred outcome?
- Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?
- Will the mandatory provision reduce administrative costs?

Planning Practice Note 60: Height and Setback Controls for Activity Centres (PPN60) provides specific guidance on the use of mandatory height and setback controls in Activity Centres. In September 2018, DELWP published an updated version of PPN60 following the completion of the pilot project *Better Height Controls in Activity Centres*[2].

Of relevance to this matter, PPN60 provides an additional justification for the use of mandatory controls based on 'comprehensive strategic work', which reads:

> *Mandatory height or setback controls should only be applied where:*
>
> - *exceptional circumstances exist; or*
> - *council has undertaken comprehensive strategic work and is able to demonstrate that mandatory controls are appropriate in the context, and*
> - *they are absolutely necessary to achieve the preferred built form outcomes and it can be demonstrated that exceeding these development parameters would result in unacceptable built form outcomes.*

In relation to 'exceptional circumstances', PPN60 states:

> *Exceptional circumstances may be identified for individual locations or specific and confined precincts, and might include:*
>
> - *significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values.*

---

[2] Refer to the Panel Report to Yarra C220 chapter 1.2 for further discussion on the pilot project and the amendment to PPN60.

- *sites of recognised State significance where building heights can be shown to add to the significance of the place, for example views to the Shrine of Remembrance...*

To pursue mandatory controls, PPN60 also states:

> *Where exceptional circumstances are identified, mandatory height and setback controls should only be applied where they are absolutely necessary to achieve the built form objectives or outcomes identified from the comprehensive built form analysis. Where mandatory controls are proposed, it will need to be demonstrated that discretionary controls could result in an unacceptable built form outcome.*

The amended version of PPN60 reflects a broader shift over time within the application of the VPPs in favour of the use of mandatory controls.

For this project, the purpose of the Hansen Built Form Review and this report is to provide a comprehensive strategic basis for height and setback controls within the study area.

PPN60 identifies the following criteria for 'exceptional circumstances' that *"...may be identified for individual locations or specific and confined precincts"*. These include (as relevant):

- *significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values*
- *sites of recognised State significance where building heights can be shown to add to the significance of the place, for example views to the Shrine of Remembrance...*

To pursue mandatory controls, PPN60 also states:

> *Where exceptional circumstances are identified, mandatory height and setback controls should only be applied where they are absolutely necessary to achieve the built form objectives or outcomes identified from the comprehensive built form analysis. Where mandatory controls are proposed, it will need to be demonstrated that discretionary controls could result in an unacceptable built form outcome.*

The Panels that considered C108boro, C161dare, C134, C220yara, C191yara and C231yara provide further guidance on the application of mandatory built form controls along Victoria Parade.

These Panels concluded that for Heritage Overlays within Activity Centres:

- Mandatory controls were appropriate for street wall heights along Sydney Road, in 31 neighbourhood centres in Boroondara and Area 1 of the Fairfield Village Neighbourhood Centre
- Mandatory upper level setbacks were appropriate in many of Boroondara's neighbourhood centres

- Mandatory heights were appropriate for Area 1 of the Fairfield Village Neighbourhood Centre
- Mandatory setbacks were appropriate for Johnston Street with a mixture of preferred and mandatory height limited combined with a 45 degree angular plane test.
- Mandatory height and upper level setback controls were appropriate to protect the most highly consistent and intact parts of Queens Parade and to protect views to key landmarks.
- Mandatory height and upper level setback controls were appropriate to protect the most highly consistent and intact parts of Queens Parade.

Parts of the Victoria Parade Precinct have - albeit short- lengths of highly consistent, intact or cohesive streetscapes that warrant mandatory controls. Mandatory height limits are appropriate to protect the visual primacy of the heritage streetscapes in these locations. Mandatory minimum upper level setback controls are also warranted where it is necessary to protect the legibility and heritage fabric of buildings that are subject to the Heritage Overlay

PART II: HERITAGE ANALYSIS

5.0 STUDY AREA ANALYSIS

5.1 PRECINCT BOUNDARY

***Figure 9**: Victoria Parade Study Area (black) overlaid on an aerial image (Source: adapted from VicPlan).*

As noted previously, this report focuses on the Victoria Parade Precinct as shown in Figure 9 above. The following precincts were considered in the *Brunswick and Smith Street Built Form Review*, GJM Heritage, 25 November 2019:

- Brunswick Street Activity Centre Spine
- Town Hall Mixed Use Precinct
- Smith Street Activity Centre Spine
- Johnston Street Activity Centre Spine
- Fitzroy East Mixed Use Precinct.

Gertrude Street was the subject of the *Gertrude Street Built Form Framework: Heritage Analysis & Recommendations*, GJM Heritage, 9 December 2019.

The Collingwood Mixed Use Precinct was considered as part of a separate study: *Collingwood Mixed Use Pocket Heritage Analysis & Recommendations*, GJM Heritage, 6 June 2018.

The Fitzroy West Mixed-Use and the Alexandra Parade Boulevard precincts are subject of separate reports prepared as part of this study.

The following sections contain an analysis of the heritage components and qualities of the Victoria Parade Precinct, including significant views. An analysis of future built form character considerations has also been provided, along with recommended built form parameters to appropriately manage heritage values.

5.2 HERITAGE CHARACTERISTICS

The buildings within the Heritage Overlay at the western end of the Victoria Parade Precinct are typically two-storey terraced houses dating from the late nineteenth century. These include the State heritage-listed Blanche Terrace (169-179 Victoria Parade, Fitzroy; VHR H0177-H0182) and McClelland Terrace (203 Victoria Parade, Fitzroy; VHR H0590). The heritage buildings in the study area within HO334 – South

Fitzroy Precinct are interspersed with non-contributory post-war buildings including a service station, offices and the Victoria Peak Townhouses at 187-201 Victoria Street, Fitzroy.

Figure 10: *(left) South side of Victoria Parade looking east from the intersection with Napier Street.*

Figure 14: *(right) Terraced housing, 139-143 Victoria Parade, Fitzroy ('Contributory' within HO334)*

Figure 15: *(left) Alexandra Terrace, 145-149 Victoria Parade, Fitzroy ('Individually significant' within HO334)*

Figure 16: *(right) Pair of terraced houses, 163-165 Victoria Parade, ('Individually significant' within HO334) and terraced house, 167 Victoria Parade, Fitzroy ('Contributory' within HO334)*

Figure 17: *Blanche Terrace, 169-179 Victoria Parade, Fitzroy (VHR H0177-H0182).*

Figure 18: (left) Russell House, 181 Victoria Parade ('Individually significant' within HO334) and c.1970s offices, 183 Victoria Parade, Fitzroy ('Not-contributory' within HO334)

Figure 19: (right) Victoria Peak Townhouses, 187-201 Victoria Parade, Fitzroy ('Not-contributory' within HO334)

Figure 20: (left) McClelland Terrace, 203 Victoria Parade, Fitzroy (VHR H0590)

Figure 21: (right) Intersection of Victoria Parade and Smith Street looking northwest.

The terraced houses and shop / residences towards the centre of the study area (between Smith and Wellington streets) are included within the Heritage Overlay (HO336 – Victoria Parade Precinct, Collingwood). Between Wellington and Islington street, the study area is typified by large post-war offices and showrooms without any identified heritage value.

Common to other major streets in the City of Yarra, the precinct includes a number of corner hotels: the Baden Powell Hotel (61-65 Victoria Parade, Collingwood; within HO336), the former John Franklin Hotel (75-77 Victoria Parade, Collingwood; within HO336) and the Prince Patrick Hotel (135-141 Victoria Parade, Collingwood; HO138).

As well as common terraced-form residential and commercial building types, the study area includes two single storey Edwardian-era houses (71 & 73 Victoria Parade, Collingwood; within HO336), the Inter-war Melbourne After Care Home (45-47 Victoria Parade, Collingwood; within HO336) and the Former Ebenezer Baptist Church (159 Victoria Parade, Collingwood; HO139).

Figure 22: *(left)) Intersection of Victoria Parade and Smith Street looking northeast*

Figure 23: *(right) 'Portia', 15-17 Victoria Parade; Inwell Terrace 19-23 Victoria Parade, ('Individually significant' within HO336); single storey terraced house, 25 Victoria Parade, Collingwood ('Contributory' within HO336)*

Figure 24: *Shop / residences, 27-37 Victoria Parade, Collingwood ('Contributory' within HO336)*

Figure 25: *(right) 'Floraston', 39 Victoria Parade; Melbourne After Care Home, 45-47 Victoria Parade, Collingwood ('Individually significant' within HO336)*

Figure 26: *(left) Shop/residences , 49-59 Victoria Parade, Collingwood ('Contributory' within HO336)*

Figure 27: (right) *Baden Powell Hotel, 61-63 Victoria Parade; terraced houses 65-67 Victoria Parade; shop/residence, 69 Victoria Parade, Collingwood ('Contributory' within HO336)*

Figure 28: *(left) Houses, 71-73 Victoria Parade ('Contributory' within HO336); former John Franklin Hotel, 75-77 Victoria Parade, Collingwood ('Individually significant' within HO336)*

Figure 29: (right) *Large showrooms, west of Rokeby Street*

Figure 30: *(left) Prince Patrick Hotel and shops, 135-141 Victoria Parade, Collingwood (HO138)*

Figure 31: (right) Former Ebenezer Baptist Church, 139 Victoria Parade, Collingwood (HO139)

At the eastern end of the study area, between Islington Street and Hoddle Street, there is an intact row of Victorian-era single and two-storey shop residences (205-219 Victoria Parade, Collingwood) that are not included within the Heritage Overlay, but are recommended for inclusion following a heritage assessment undertaken by GJM in August 2020.

Figure 32*: Shop/residences, 205-219 Victoria Pasrade, Collingwood (not included within an HO).*

The heritage buildings found throughout the study area generally share the following characteristics:

- Attached terraced construction
- Masonry construction with less than 40% of the upper-level street wall face comprised with openings such as windows and doors (see Figure 33)
- Painted render or face brick façades
- Parapeted front facades with solid parapets, open balustrades or more elaborate gables
- No setback from the street boundary
- Early or altered shop fronts taking up the majority of the ground floor often with recessed entries
- Splayed corners to return façades or end-of-terrace elevations to laneways and side streets
- Architectural features such as belvederes and towers at prominent corner site
- Verandahs or later canopies

- Visible chimneys normally set back between 3m and 4m from the front of the building.

***Figure 33**: Two-storey shop residence (27 Victoria Parade, Collingwood, within HO336) showing the typical relationship between solid (walls) and void (windows) on the front (street) façade. The first-floor windows make up less than 40% of the wall area (excluding the parapet, pediment or balustrade). The early (or more recent – as in this case) shopfront glazing occupies the majority of the ground floor façade.*

The following examples show typical building types found within the study area. It must be noted that buildings of a particular type will not necessarily demonstrate all the features identified below, and may include other features such as visible roofs and chimneys.

***Figure 34**: Two-storey terraced house ('Floraston', 39 Victoria Parade, Collingwood within HO336).*

***Figure 35**: Shop / Residence (27 Victoria Parade, Collingwood, within HO336)*

***Figure 36**: Corner hotel / commercial building (Prince Patrick Hotel, corner Victoria Parade and Rokeby Street, HO138)*

5.3 LOCAL LANDMARKS

Victoria Parade Precinct does not include any of the municipal-wide landmarks within the City of Yarra that are identified within Clause 22.03 'Landmarks and Tall Structures' of the Yarra Planning Scheme nor any of the views of these landmarks included in the report entitled *Landmarks & Views Assessment* (Ethos Urban, October 2019). Having said that, the location, scale, function and architectural form and detail of some buildings within the study area has resulted in them acting as local landmarks. These buildings serve as markers, wayfinding aids or landmarks in the local streetscape context due to their siting at key intersections or their scale within the surrounding streetscape.

In the context of the Victoria Parade Precinct, the local landmarks are described in Table 2.

Table 2 – Local landmark buildings

Address	Building Name	Type	Corner	Grading	Photograph
61-65 Victoria Parade, Collingwood	Baden Powell Hotel	Hotel on a prominent corner site	Victoria Parade and Cambridge Street	Contributory (HO336)	

75-77 Victoria Parade, Collingwood	former John Franklin Hotel	Former hotel on a prominent corner site	Victoria Parade and Wellington Street	Individually Significant (HO336)	
135-141 Victoria Parade, Collingwood	Prince Patrick Hotel and shops	Hotel on a prominent corner site	Victoria Parade and Rokeby Street	Individual heritage place (HO138)	
139 Victoria Parade, Collingwood	Former Ebenezer Baptist Church	Place of worship	Victoria Parade and Rupert Street	Individual heritage place (HO139)	

6.0 HERITAGE ANALYSIS

6.1 HERITAGE STATUS

6.1.1 Existing conditions

Approximately half of the length of the Victoria Parade Precinct is (intermittently) included within the extent of the Heritage Overlay. The western part of the precinct is subject to HO334 – South Fitzroy Precinct (between Napier and Smith streets) and HO336 – Victoria Parade Precinct (between Smith and Wellington streets) with two individual Heritage Overlays (HO138 – Prince Patrick Hotel and shops; HO139 – former Ebenezer Baptist Church) located in the eastern half of the precinct. Two places are included on the VHR namely Blanche Terrace at 169-179 Victoria Parade), Fitzroy (VHR H0177-H0182[3]) and McClelland Terrace at 203 Victoria Parade, Fitzroy (VHR H0590).

While not included within the study area, HO188 affects the street trees along the boulevard.

***Figure 37**: Heritage Overlay and VHR map – Victoria Parade precinct outlined in black.*
Source: adopted from VicPlan.

Heritage Overlay shaded in pink

VHR places shaded in yellow

[3] The individual listing of each of the six near-identical terraced houses that make up Blanche Terrace on the VHR is contrary to current practice and reflects the early registration of these buildings under the *Historic Buildings Act 1974*. It is also noted that the extent of registration includes no land (or curtilage) associated with these buildings. Under Heritage Council's longstanding practice these houses would be now be considered as a single heritage place and would include the land on which they are located to the extent of the cadastral block.

***Figure 38**: Current heritage gradings from Appendix 8 – Victoria Parade precinct outlined in black.*
Source: adapted from VicPlan

The existing heritage status for the buildings within the study area are listed in Table 3. We note that there is some inconsistency between the street addresses provided within Appendix 8 and those identified in VicPlan. The addresses, dates of construction and gradings provided below are taken directly from Appendix 8.

Table 3 – Existing heritage status

VICTORIAN HERITAGE REGISTER				
VHR #	*Name*	*Address*	*Heritage Overlay*	*Date*
H177	Blanche Terrace	169 VICTORIA PARADE FITZROY	HO191	1867
H178	Blanche Terrace	171 VICTORIA PARADE FITZROY	HO192	1867
H179	Blanche Terrace	173 VICTORIA PARADE FITZROY	HO193	1867
H180	Blanche Terrace	175 VICTORIA PARADE FITZROY	HO194	1867
H181	Blanche Terrace	177 VICTORIA PARADE FITZROY	HO195	1867
H182	Blanche Terrace	179 VICTORIA PARADE FITZROY	HO196	1867
H590	McClelland. Terrace	203 VICTORIA PARADE	HO197	1882

INDIVIDUAL HERITAGE OVERLAYS				
Heritage Overlay #	*Name*	*Address*	*Appendix 8 Grading*	*Date*
HO138	Prince Patrick Hotel and Shops	135-141 VICTORIA PARADE, COLLINGWOOD	Individually significant	1887
HO139	Former Ebenezer Baptist Church	159 VICTORIA PARADE, COLLINGWOOD	Individually significant	1870
PRECINCT HERITAGE OVERLAYS				
Heritage Overlay #	*Name*	*Address*	*Appendix 8 Grading*	*Date*
HO334	South Fitzroy Precinct	OFFICES, 133-137 VICTORIA PARADE	Not contributory	1930 – 1940
		139-143 VICTORIA PARADE	Contributory	1860 - 1880
		ALEXANDRA TERRACE, 145-149 VICTORIA PARADE	Individually significant	1864-5
		SERVICE STATION, 151-159 VICTORIA PARADE	Not contributory	1950 - 1980
		163-165 VICTORIA PARADE	Individually significant	1868
		167 VICTORIA PARADE	Contributory	1850 - 1860
		RUSSELL HOUSE, 181 VICTORIA PARADE	Individually significant	1862
		OFFICES, 183 VICTORIA PARADE	Not contributory	1970 - 1980
		VICTORIA PEAK TOWNHOUSES, 187-201 VICTORIA PARADE	Not contributory	1970 - 1980
		SHOPS/OFFICES, 205-209 VICTORIA PARADE	Not contributory	1970 - 1980
		SHOPS/OFFICES, 1-3 SMITH STREET	Not contributory	1970 – 1980
		APARTMENTS, 4 GORE STREET	Not contributory	1970 - 1980
HO336	Victoria Parade Precinct, Collingwood	PORTIA, 15-17 VICTORIA PARADE	Individually significant	1889
		IRWELL TERRACE, 19-23 VICTORIA PARADE	Individually significant	1868

		25 VICTORIA PARADE	Contributory	1880 – 1890
		SHOP & RESIDENCE, 27-37 VICTORIA PARADE	Contributory	1880 - 1890
		FLORASTON, 39 VICTORIA PARADE	Individually significant	1876
		MELBOURNE AFTER CARE HOME, LATER AFTER CARE HOSPITAL, MELBOURNE DISTRICT NURSING SOCIETY, 45-47 VICTORIA PARADE	Individually significant	1926, 1936
		SHOP & RESIDENCE, 49 VICTORIA PARADE	Contributory	1850-1890
		SHOP & RESIDENCE, 51 VICTORIA PARADE	Contributory	1880-1900
		SHOP & RESIDENCE, 53 VICTORIA PARADE	Contributory	1880-1900
		55 VICTORIA PARADE	Contributory	1850-1890
		57 VICTORIA PARADE	Contributory	1850-1890
		SHOP & RESIDENCE, 59 VICTORIA PARADE	Contributory	1850-1890
		BADEN POWELL HOTEL, 61-65 VICTORIA PARADE	Contributory	1880 – 1940
		67 VICTORIA PARADE	Contributory	1870 - 1890
	Shop & residence	69 VICTORIA PARADE	Contributory	1870 - 1890
		71 VICTORIA PARADE	Contributory	1900 – 1915
		73 VICTORIA PARADE	Contributory	1900 – 1915
	John Franklin Hotel, former	75A-77 VICTORIA PARADE	Individually significant	1880 - 1890

6.1.2 Recommended Changes

The review of the existing extent and grading of buildings was limited to substantial omissions and anomalies. The review did not include a complete re-assessment of

the 'Individually significant' / 'Contributory' / 'Not-contributory' gradings of individual buildings. A table of the identified anomalies is provided at Appendix I.

The row of Victorian-era shop/residences between Islington and Hoddle streets at the eastern end of the study area was identified as warranting inclusion on the Heritage Overlay as a small precinct and a citation has been prepared (see Appendix II).

It is noted that Blanche Terrace (VHR H0177, H0182) is included on the VHR as six individual buildings, when current practice would be to manage this as a single heritage place. Further, the Extent of Registration for Blanche Terrace (as gazetted in 1974) only includes the buildings themselves with no land or curtilage associated with the dwellings. While the land within each of these properties not occupied by a building or structure is also subject to HO334, this will not enable a holistic consideration of the heritage values of these properties when assessing permits under the *Planning and Environment Act 1987* or the *Heritage Act 2017*. We therefore recommend that an application be made under section 62(1) of the Heritage Act to amend the VHR entry to combine the properties into a single entry and include land to the extent of the cadastral blocks.

In addition, we recommend that the City of Yarra heritage grading map be updated to accurately reflect Appendix 8.

6.2 ZONING

6.2.1 Existing conditions

The carriageway and median strip of Victoria Parade, a major east-west thoroughfare, is zoned Road Zone (RDZ1). The land within the study area is generally zoned Commercial 1 Zone (C1Z). The land occupied by the Victoria Peak Townhouses (187-201 Victoria Parade, Collingwood) is General Residential Zone (GRZ). Small pockets on the northern edge of the study area are zoned Commercial 2 Zone (C2Z) (2-12 Rokeby Street, Collingwood), Mixed Use Zone (MUZ) (the rear of 29-35 Victoria Parade, Collingwood) and Neighbourhood Residential Zone (NRZ) (part 4 Gore Street).

The land to the north of the Victoria Parade Precinct within Fitzroy is generally zoned NRZ and is subject to HO334. Between Smith and Wellington streets the land north of the study area is generally zoned MUZ and is subject to HO336. East of Wellington Street the majority of the land north of the study area is zoned C2Z and is not subject to the Heritage Overlay.

***Figure 39**: Zone map - Victoria Parade Precinct outlined in black. Source: adopted from VicPlan.*

6.2.2 Recommended Changes

The currenting zoning of land within the Victoria Parade Precinct is considered to be appropriate in heritage terms and no changes are recommended.

6.3 POTENTIAL FUTURE CHARACTER CONSIDERATIONS

The Victoria Parade Precinct has two principal built form characters. The first – found between Napier and Wellington streets to the west and Islington and Hoddle streets to the east – comprises fine grained, nineteenth century, two-storey terraced housing and shop/residences interspersed with later, low-rise residential and commercial development. The second character is typified by large format low- to medium-rise office, showroom and big-box retail buildings between Wellington and Islington Streets.

With the exception of the service station at 151-159 Victoria Parade, Fitzroy, the nineteenth century residential streetscape between Napier and Gore Streets is highly consistent in terms of building form (parapeted), setback (verandah with or without small garden), street wall height (two storey), materiality (rendered masonry) and architectural expression. While slightly less consistent in terms of building height and form, the buildings between the McDonalds Restaurant at the intersection of Victoria Parade and Smith Street to the west and Wellington Street to the east also have a high degree of integrity and visual cohesion. The row of shop/residences between Islington and Hoddle streets are largely intact, consistent in their age and architectural expression and have a high level of visual cohesion. In these three areas, with visual prominence of the consistent and cohesive heritage streetscapes should be retained and new development should remain recessive within the streetscape.

The large sites towards the eastern half of the study area have few sensitive interfaces and provide the opportunity for a significantly greater scale of development than within the intact heritage areas. Heritage considerations will have a more limited role in informing the overall preferred future character for this part of the Victoria Parade Precinct.

In relation to the individual heritage overlays (HO138 and HO139), future development proposals to these sites should consider the heritage values of that place and be sited, massed and designed to retain the visual prominence and three-dimensional form of these heritage places, namely: the Prince Patrick Hotel and shops (135-141 Victoria Parade, Collingwood) and the former Ebenezer Baptist Church (159 Victoria Street, Collingwood).

The Victoria Parade Precinct has sensitive heritage interfaces to the north between Gore and Little Smith streets (HO334) and between Smith and Wellington streets (HO336). New development should consider the impact on these heritage precincts in terms of visual and physical interface as well as amenity considerations

6.4 RECOMMENDED BUILT FORM PARAMETERS

Any DDO proposed for the Victoria Parade Precinct should apply built form guidance to ensure that new built form is respectful of the heritage places within the area.

A DDO control applied to properties within the Victoria Parade Precinct that are subject to – or immediately adjacent to – the Heritage Overlay should ensure new development respects the heritage significance of the graded buildings and is sited, massed and designed to be visually recessive and to not dominate the heritage place. This includes ensuring that appropriate interfaces are provided between the generally two-storey scale heritage buildings within heritage precincts and potential new development.

To develop appropriate built form parameters for the Victoria Parade Precinct, Hansen Partnership, the City of Yarra and GJM Heritage undertook the following analysis:

- Heritage and urban context information, known planning scheme amendments, and past and current planning applications was collected and analysed; and
- Built form parameters from the above analysis were drawn and then tested, firstly via cross-sectional drawings and then via a 3D model to determine their appropriateness.

Informed by the analysis and testing methodology outlined above, it is recommended that a DDO should seek built form outcomes that:

- Retain the visual prominence of local landmarks in the streetscape.
- Retain chimneys and principal roof forms visible from the public realm (excluding laneways).
- Ensure new development within the Heritage Overlay does not visually dominate the existing heritage fabric.

- Ensure any upper-level or infill development is subservient to heritage fabric and is visually recessive in mass, scale and materiality.
- Encourage the top-most level (or levels) of new development to be set further back from a principal heritage frontage (as encouraged at Clause 22.02-5.7.2) and treated as a visually separate roof top element.
- Retain the visual prominence of the return façades of buildings that address both Victoria Parade and cross streets (particularly at George Street (eastern side), Cambridge Street (both sides), Wellington Street (western side), Rokeby Street (eastern side) and Rupert Street (eastern side)) by setting back new upper-level built form from both street frontages.
- Establish a street wall height for infill development within consistent heritage streetscapes between Napier and Wellington streets that reflects the established two (Victorian-era) storey scale of those precincts.
- Encourage the ground level setback to match the lesser setback of any neighbouring heritage buildings.
- Ensure that the heritage buildings remain prominent within those parts of the Victoria Parade streetscape that are subject to the Heritage Overlay and retain their three-dimensional form as viewed from the public realm to avoid 'facadism'. This will require new upper-level development to be set back a minimum of 6m from the street wall and for redevelopment to respect the existing inter-floor heights of the heritage fabric.

7.0 BUILT FORM TESTING

To assist in the translation of the 'Recommended Built Form Parameters' in Part II into specific guidance that could be translated into a DDO control, the heritage analysis was reviewed against cross-sectional drawings of potential development envelopes and 3D computer modelling prepared by Hansen Partnership and the City of Yarra to test the appropriateness of particular built form outcomes that achieved the intent of the 'Recommended Built Form Parameters'.

As well as the cross-sectional drawing studies, 3D computer modelling using Sketchup Pro™ of potential bulk and massing envelopes for the study area was also interrogated. The existing built form was modelled along with approved, but not yet constructed, development in the Victoria Parade Precinct. It was used as a 'working' massing model to inform heights and setbacks on key development sites and to provide a comparative visual analysis. Given the relatively small proportion of the study area that is subject to the Heritage Overlay the 3D modelling was particularly useful in testing the generally more generous built form parameters applied to the larger, less-encumbered potential development sites rather than those with intact heritage buildings.

The Sketchup model was also interrogated to consider the impact of new buildings from the natural eye level (1.6m) on the public footpath.

Extensive field work was undertaken and site visits were used to inform the recommendations made in this report. Views of heritage places were only considered from the public footpath or from the central median strip with particular emphasis placed on intersections and tram stops where pedestrians are likely to dwell.

PART III: BUILT FORM RECOMMENDATIONS

8.0 BUILT FORM RECOMMENDATIONS

Any DDO applied to the Victoria Parade Precinct should include provisions to complement, but not duplicate, the decision guidelines at Clause 43.01-8 (Heritage Overlay), State Planning Policy at Clause 15.03-1S and local policy within Clauses 22.02, 22.03 and 22.10 (or as translated into the post-VC148 Planning Policy Framework through Amendment C269yara) of the Yarra Planning Scheme to inform new development.

Having regard to the heritage conditions within the study area as well as cross-sectional drawings and 3D modelling prepared by Hansen Partnership and the City of Yarra, it is recommended that the built form controls set out in 8.1 below be applied to new development to ensure appropriate weight is given to the heritage values within the study area. The cross-sectional drawings and 3D modelling helped assess whether or not the upper-level development would 'be visually recessive and not dominate the heritage place' as sought at Clause 22.02-5.7.1.

The cross-section diagrams and 3D modelling helped assess whether or not the upper-level development would 'be visually recessive and not dominate the heritage place' as sought at Clause 22.02-5.7.1 and proposed Clause 15.03-1L as endorsed by Council. While we note that the Panel considering C191yara did not consider a The use of mandatory upper-level setback controls and the application of a '45° angular plane' test (from Yarra DDO15) to protect the visual prominence of the street wall remains relevant tools for development behind the intact and cohesive heritage streetscapes between Napier and Gore streets, Smith and Wellington streets, and Islington and Hoddle Streets.

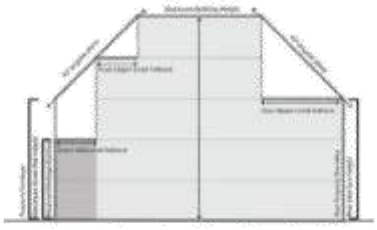
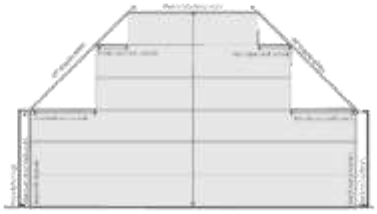
Buildings graded 'Individually Significant' and 'Contributory' or included in the VHR are referred to as 'heritage buildings' within the table below and those graded 'Not-contributory' or that are vacant are considered 'infill sites'. The Executive Director, Heritage Victoria will be the principal decision maker in relation to any redevelopment of the VHR places within the Victoria Parade Precinct[4] and the controls identified below should be established to protect the heritage values of the precincts within which these State-listed heritage places are located.

8.1 RECOMMENDED DDO CONTROLS

Built Form Element	Mandatory	Preferred	Rationale
Street wall height (infill development) within or immediately adjacent to land	11m maximum 8m minimum	Match the parapet height of the adjacent heritage building to the width of the property boundary or	To ensure new built form responds to its immediate heritage context. A mandatory maximum and minimum street wall height is necessary to maintain

[4] Blanche Terrace, 169-179 Victoria Parade, Fitzroy (VHR H0177-H0182) and McClelland Terrace, 203 Victoria Parade, Fitzroy (VHR H0590)

subject to the Heritage Overlay		for a distance of 6m whichever is less.	the two (Victorian-scale) storey form of the heritage streetscapes. The preferred control encourages new built form to match the height of the neighbouring heritage building.
Front setback (infill development) within or immediately adjacent to land subject to the Heritage Overlay	-	Match the setback, from any and all street frontages excluding laneway frontages, of the adjacent heritage building	To ensure new built form responds to the heritage context which generally has a small or no setback.
Minimum setbacks above street wall within or immediately adjacent to land subject to the Heritage Overlay	6m from the façade to Victoria Parade and Wellington Street Note: the setbacks for individual heritage places should be informed by their Statements of Significance and an analysis of the historic fabric of the heritage place.	6m from George, Cambridge, Rokeby, Rupert and Islington Streets 6m minimum for sites immediately abutting land subject to the Heritage Overlay	While the built form of heritage buildings varies across the Victoria Parade Precinct, there are largely intact heritage streetscapes within the precinct. A mandatory minimum 6m setback from the Victoria Parade and Wellington Street boundaries is appropriate given the highly consistent two-storey built form and the need to protect the visual prominence of the heritage street wall on these major thoroughfares. This distance will also retain the majority of visible chimneys and roof forms. The application of a mandatory 6m setback is consistent with that through DDO25, DDO26, DDO27 and DDO28 proposed to be introduced through C191yara. A larger setback from the principal facades of heritage buildings may be required development to be set back, and for the retention of an appropriate and legible three-dimensional heritage form. A preferred setback is appropriate from George, Cambridge, Rokeby, Rupert and Islington Streets to allow for the range of building forms and to recognise the more minor nature of these cross streets.
Maximum building heights within the Heritage Overlay	-	Land subject to HO334 11m (three storeys) (shallow sites) to 14m (four storeys) (deep sites) Land subject to HO336	The variety of site depths, existing urban form and interface conditions require a range of maximum building heights. Shallow sites are those less than range from approximately 25-30m in depth. Deep sides range from approximately 30m to 50m in depth.

14m (4 storeys) (shallow sites) to 21m (6 storeys) (deep sites)	A preferred control will enable a wide range of design responses. The overall height and building form should be informed by the preferred building envelope defined by the 45° angular plane described in DDO15. *Heritage Building* 
<u>Land subject to HO138</u> (135-141 Victoria Street, Collingwood) 14m (4 storeys)	
<u>Land subject to HO139</u> (159 Victoria Street, Collingwood) 11m (3 storeys) Note: there is limited opportunity for development on the former Baptist Church site beyond the rear car park area)	*Infill building* 
<u>Land recommended for inclusion on the Heritage Overlay (205-219 Victoria Parade, Collingwood)</u> 14m (4 storeys)	

8.2 ADDITIONAL GUIDANCE

The heritage policy proposed as part of C269yara includes specific strategies to address new development and alterations to commercial and industrial heritage places. If these provisions are implemented through Amendment C269yara, additional heritage design requirements are not likely to be needed within a DDO. However, if new development is to be informed by the existing heritage provisions at Clauses 15.03-1S, 21.05-1, 22.02 and 43.01 of the Yarra Planning Scheme, we recommend that the following heritage design requirements be applied to a DDO:

- New infill development within heritage precincts should:
  - Interpret the historic façade rhythm, including fenestration patterns and proportions, the relationship between solid and void, and the existing module of structural bays.
  - Retain the visual prominence of prominent corner buildings and local landmarks.
  - Be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.

  - Ensure façade treatments and the articulation of new development are simple and do not compete with the heritage fabric.
  - Avoid the replication of existing decorative features and architectural detail.
- The adaptation of existing heritage buildings should:
  - Discourage highly reflective glazing in historic openings.
  - Ensure the inter-floor height of the existing building is maintained and avoid new floor plates and walls cutting through historic openings.
  - Encourage the retention of solid built form behind retained facades and avoid balconies behind existing openings.
- New upper-level development behind existing heritage buildings should:
  - Retain the visual prominence of parapet and roof-top elements including parapets, balustrades, pediments, chimneys, lanterns, urns and other architectural features, where these exist.
  - Be set back to retain the visual prominence of prominent corner buildings and local landmarks.
  - Ensure that the design and setback of the addition does not visually dominate the heritage building or surrounding heritage places.
  - Retain the primacy of the three-dimensional form of the heritage building.
  - Incorporate materials and finishes that are recessive in texture and colour.
  - Generally utilise visually lightweight, but high quality, materials that create a juxtaposition with the heavier masonry of the heritage facades.
  - Incorporate simple architectural detailing so it does not detract from significant elements of the existing building or streetscape.
  - Provide a recessive backdrop to the heritage streetscape within precincts and to individual heritage buildings.
  - Avoid highly articulated facades with recessed and projecting elements.
  - Avoid highly contrasting or vibrant primary colours.
  - Avoid unarticulated façades that give a bulky appearance, especially from oblique views.
  - Be articulated to reflect the fine-grained character of narrow sites.
  - Encourage that upper-level development behind rows of identical or similar shop/residences is consistent in form, massing and façade treatment as existing upper-level development (where this exists).

- New development on land immediately abutting heritage places should:
  - Provide a sensitive site-responsive transition between the existing heritage fabric and the new proposed built form.
  - Retain the visual prominence of prominent corner buildings and local landmarks.
  - Be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.
  - Ensure façade treatments and the articulation of new development are simple and do not compete with the heritage fabric.
  - Avoid the replication of existing decorative features and architectural detail.

APPENDIX I - Victoria Parade Precinct Anomalies

A1.1 Qualifications

- Only obvious omissions and anomalies have been identified
- Review of individual gradings across the precinct has not been undertaken
- Photos taken by GJM in October 2018 and March 2020 unless otherwise noted.

A1.2 Anomalies Map

A1.3 Anomalies

Recommendations are provided in **bold.**

MAP REF	ADDRESS (HO NUMBER)	CURRENT GRADING APPENDIX 8	CURRENT GRADING GRADING MAP	PROPOSED GRADING	COMMENTS / RECOMMENDATION (BOLD)	IMAGES
1.	Blanch Terrace, 169-179 Victoria Parade, Fitzroy 169 Victoria Parade (VHR H0177; HO191) 171 Victoria Parade (VHR H0178; HO192) 173 Victoria Parade (VHR H0179; HO193) 175 Victoria Parade (VHR H0180; HO194) 177 Victoria Parade (VHR H0181; HO195) 179 Victoria Parade (VHR H0182; HO196)	VHR	Individually significant	VHR (single heritage place)	This terrace of six houses dating from 1867 are included on the VHR as six separate entries. No land is associated with the registration meaning only the land itself is included on the VHR. Blanch Terrace, a whole is a heritage place and a single VHR entry with associated land should be applied to the heritage place. It is recommended that application be made under s.62(1) of the Heritage Act 2017 to amend the VHR entry. **Make application to amend the extent to include land associated with the buildings and combine VHR H0177, H0178, H0178, H0179, H0180, H0181 & H0182.**	

2.	71 Victoria Parade, Collingwood (HO336)	Contributory	Individually significant	Contributory	There is an inconsistency in grading between Appendix 8 and the grading map. **Update grading map to reflect Appendix 8 grading.**	
3.	73 Victoria Parade, Collingwood (HO336)	Contributory	Individually significant	Contributory	There is an inconsistency in grading between Appendix 8 and the grading map. **Update grading map to reflect Appendix 8 grading.**	

4.	205-219 Victoria Parade, Collingwood	No HO	No HO	Potential new HO precinct	Numbers 205, 207, 209, 211-13, 215 and 217 Victoria Street, Collingwood are an intact but small row of single and two-storey shop residences not included on the Heritage Overlay. The heritage assessment prepared by GJM identified that they are of local significance for their historical (Criterion A) and representational (Criterion D) values. **Include 205-217 Victoria Parade, Collingwood on the Schedule to the Heritage Overlay**	

APPENDIX II – Citations and Statement of Significance: Victoria Parade East Precinct, 205-217 Victoria Parade, Collingwood

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VICTORIA PARADE EAST PRECINCT

205-219 VICTORIA PARADE, COLLINGWOOD, 3066

205-219 Victoria (GJM Heritage, March 2020).

DATE: 27 August 2020 - DRAFT

FILE: 2020-008

DRAFT

VICTORIA PARADE EAST PRECINCT

205-219 VICTORIA PARADE, COLLINGWOOD

Place type: Commercial shops & residences	**Architect:** Not known
Construction Date: Victorian period	**Builder:** Not known
Recommendation: Include in the Heritage Overlay as a heritage precinct comprising seven (7) 'Contributory' buildings	**Extent of Overlay:** To the extent of the property boundries including the rear laneway. Refer to the plan at Figure 13.

Precinct History

Commercial development within the Victoria Parade East Precinct commenced in the 1860s, with three timber shops built by 1870 (S&Mc; RB). The Sands & McDougall Directories and Rate Books appear to indicate that the current structures at 211 and 219 Victoria Parade were the first brick buildings constructed in the row. They were constructed in the early-to-mid 1870s for Daniel and Richard Roberts to replace earlier timber buildings in these locations (no. 211 appears to be incorrectly shown as a timber building in the 1897 Melbourne and Metropolitan Board of Works [MMBW] plan at Figure 1). In the 1870s, other occupants of the row included a general dealer and fruiterer and greengrocer (in timber shops), and a timber and stone workshop at the corner of Islington Street. At the far east end of the block, on the corner of Hoddle Street (outside of the precinct, since demolished), was the Junction Hotel that was established in the early 1870s.

The remainder of the row was constructed in the 1880s, with the rate books listing seven brick shops within the precinct by 1884. These shops were built for three owners – the aforementioned Daniel Roberts (current 215-219) and Richard Roberts (current 211-213), and William Pearce (current 205-209) (RB). The property at 211-213 Victoria Parade, owned and occupied by Richard Roberts, bootmaker, was addressed as one property at this time (no. 205). The Net Annual Value of Roberts' property increased in the early 1880s, suggesting works to the property. In the 1880s, occupants within the precinct included a haberdasher, milliner, bootmaker, leather seller, plumber, tobacconist and furniture broker (S&Mc).

The 1897 and 1899 MMBW plans (Figures 1 and 2) show the developed commercial strip, and the original extent of the block before the eastern section was demolished in the 1970s to make way for the expansion of Hoddle Street. The 1899 plan shows the earlier address numbers, with the buildings at the current 205-219 Victoria Parade addressed as 199-213, with no shopfront verandahs to the row. The 1897 plan suggests that the current 211 Victoria Parade was constructed of timber at that date (with horizontal hatching), however the rate books record the building as brick.

Between 1907 and 1910 the numbering along Victoria Parade changed, establishing the current address numbers. Occupants of the commercial row in 1905 comprised a hairdresser and tobacconist, bookseller, bootmaker, leather dealer, news agent and stationer, confectioner and plumber. The strip retained its commercial character throughout the twentieth century. In the early 1970s the buildings east of the precinct were demolished to facilitate the widening of Hoddle Street (S&Mc).

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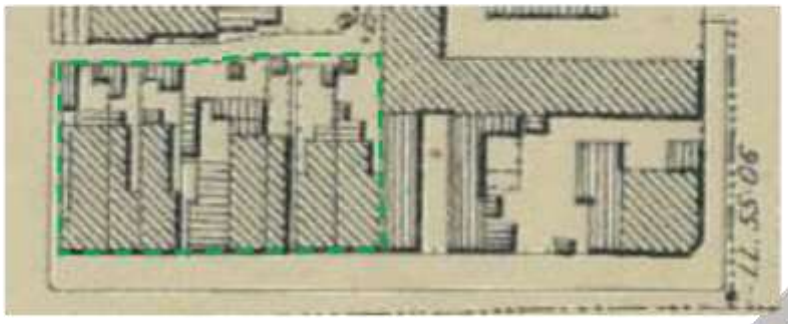

Figure 1. The commercial strip in 1897. The extent of the precinct is indicated in green. Diagonal hatching indicates a brick or stone building, while the horizontal hatching indicates a building constructed of wood (MMBW No 28, dated 1897)

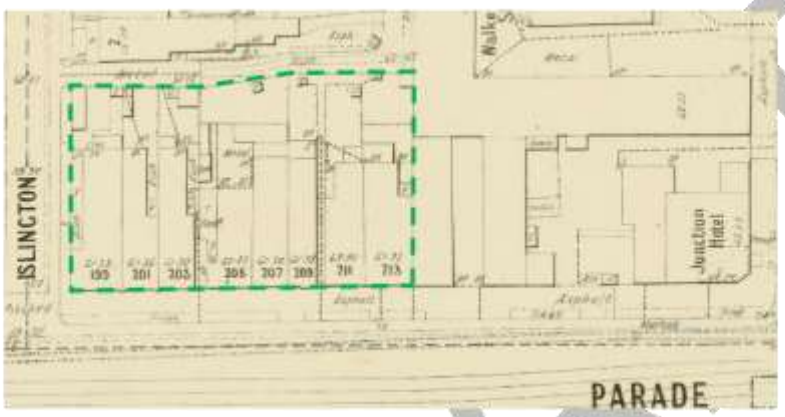

Figure 2. The commercial row in 1899. The extent of the precinct is indicated in green. Nos. 199 to 213 shown are the current 205-219 Victoria Parade (MMBW DP No. 1210, dated 1899)

Historical Themes

The place illustrates the following themes as outlined in the *City of Yarra Thematic History* (1998):

4.0 Developing local economy

- 4.4 Smaller Retailers: Strip Shopping

Description

The row of commercial buildings at 205-219 Victoria Parade is in the inner-northern suburb of Collingwood on the north side of Victoria Parade and to the west of the intersection with Hoddle Street. The row is bordered by Islington Street to the west and a bluestone laneway to the north. A small grassed reserve to the east separates the row from Hoddle Street. The buildings have no front or side setbacks but a narrow pedestrian laneway separates nos. 209 and 211. All buildings are of brick construction and have rendered facades with roofs set behind parapets.

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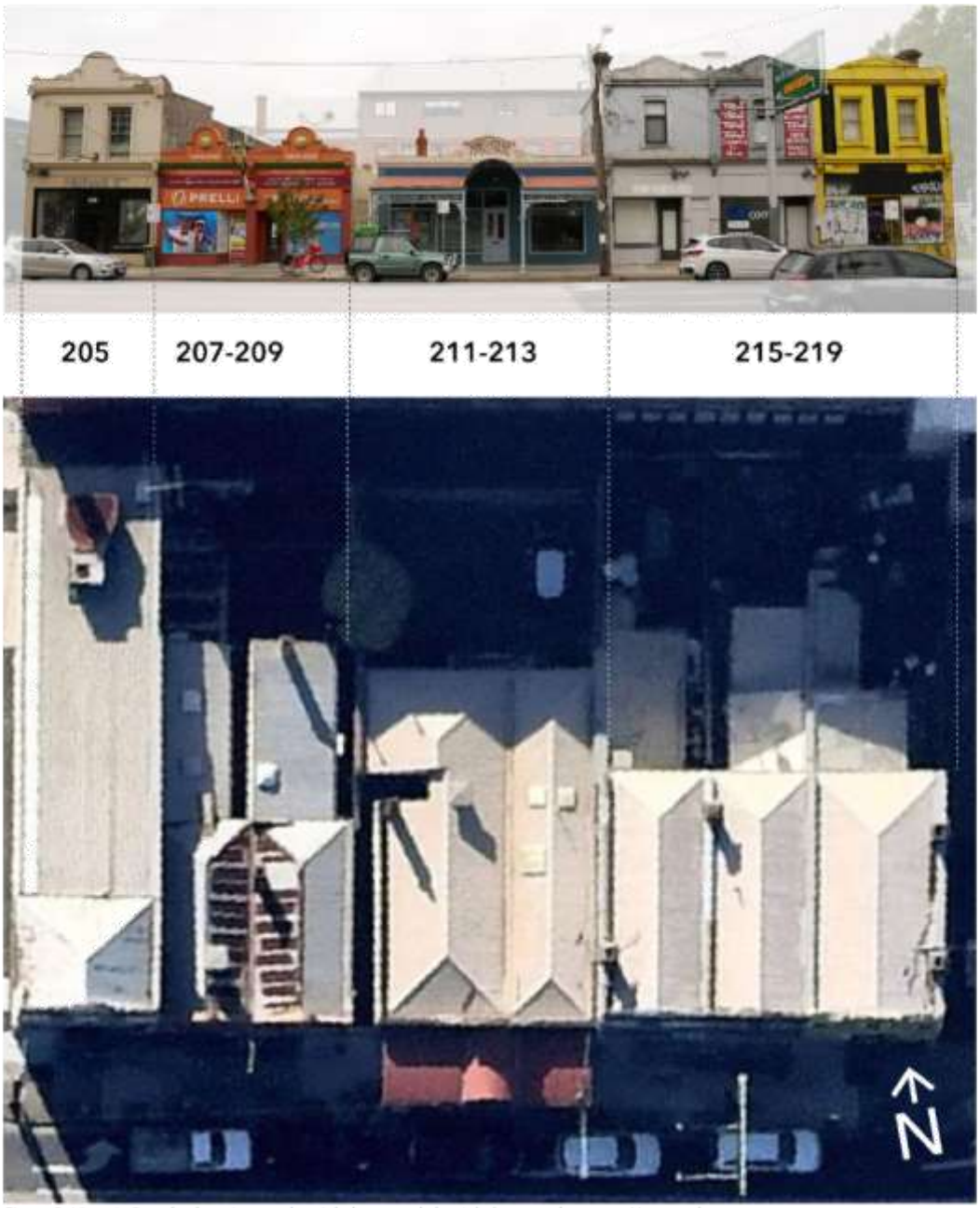

Figure 3. Victoria Parade elevations and aerial photograph (aerial photograph source: Nearmap)

205 and 207-209 Victoria Parade

205-209 Victoria Parade comprises three shops constructed as a group. 205 is a two-storey shop-residence, and 207-209 are two single-storey shops. The shops are of rendered masonry construction, each with a hipped roof clad in corrugated sheet metal concealed behind a parapet featuring semicircular pediments to each address. The upper façade of no. 205 contains two timber-framed sliding sash windows with moulded

surrounds, and the ground floor façade has been modified through the introduction of shopfront glazing, which flank the central recessed entry. At 207-209, large shopfront glazing is also present, and the recessed entrance to each of 207-209 is adjacent to the party wall the properties share. The party walls featured vermiculated semicircular corbels. Lions heads are present above these at the central and eastern party walls. A narrow easement is located immediately to the east of the building, and a later two-storey addition has been constructed to the rear of no. 205.

211-213 Victoria Parade

211-213 Victoria Parade comprises a single-storey shop with canopy to the street. The building is a rendered masonry structure with two hipped-roof volumes clad in corrugated sheet metal concealed by a low parapet with dogtooth brick course and a simple central pediment. The western hip of the roof is wider than the eastern hip and has a corbeled chimney with cylindrical terracotta pot. The street façade is punctuated with large expanses of timber-framed shopfront glazing. The entrance is centrally located with a half-glazed four-panel timber door. The verandah is a later addition and comprises a central barrel-vault over the entry, which is clad in painted corrugated metal, with concave sections to either side and decorative cast iron valances and brackets. The rear of the site is at-grade carpark, accessed from the rear laneway via Islington Street. A narrow easement is located immediately to the west of the building.

215-219 Victoria Parade

215-219 Victoria Parade comprises a row of three two-storey shop-residences. The buildings are of rendered masonry construction with the three facades exhibiting the same detailing to the parapets and window openings and surrounds. Party walls are articulated at the upper and lower string course by moulded corbels featuring a Queen's head motif. One of four urns to the parapet remains extant, and each shop features its own pediment. Three rendered brick chimneys remain extant – two at the east elevation of 219 and one to the west elevation of 215.

The upper-storey windows of each shop have identical moulded surrounds, with one central window to each of nos. 215 & 217 and a pair of centrally positioned windows to no. 219. Nos. 215 & 217 contain non-original timber-framed windows and no. 219 appears to retain the original timber-framed sliding sash windows. The shopfronts at ground floor level have been modified through the introduction of shopfront glazing. The recessed entries at nos. 215 & 217 are located to the east of the shopfront window while the entry to no. 219 is centrally located. An additional door is located to the east of the main entry of no. 215 and comprises a later timber door with fanlight above. Various single-storey structures are located to the rear of the building.

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Figure 4. The precinct as viewed from the road reserve at the centre of Victoria Parade, looking northeast. Islington Street at left.

Figure 5. Looking northeast to 211-213 Victoria Parade, with canopy at front, and 215-219 Victoria Parade at right.

Figure 6. 207-209 Victoria Parade, showing extant parapets and lion's head moulding to party wall.

Figure 7. Looking east to the canopy at 211-213, showing later steel structure above cast iron verandah posts.

Figure 8. Looking southwest to the rear of 215-219 Victoria Parade, showing extant chimneys to the east elevation and single-storey outbuildings (at right).

Integrity/Intactness

The buildings retain a high degree of integrity to the Victorian period in fabric, form and detail. While the buildings have undergone some alterations, including the replacement of windows and doors, the loss of shopfronts at street level, the loss of some decorative detailing, and the construction of a verandah canopy at no. 211-213, these do not diminish the ability to understand and appreciate the precinct as a highly intact row of Victorian commercial premises.

Comparisons

The row of commercial premises at 205-219 Victoria Parade, Collingwood are of note as an intact and representative row of Victorian-era commercial buildings, constructed in the City of Yarra.

Substantial numbers of commercial buildings were constructed in the City of Yarra in the 1870s and 1880s. Those of the late nineteenth century typically incorporated classical elements and motifs into symmetrical parapeted facades with varying degrees of elaboration. Rendered facades were most common, with some facades of red brick and contrasting render and others of polychromatic brickwork. Rendered decoration, in the form of classical elements such as cornices, architraves, balustrading, urns, stringcourses and pediments, was commonly applied to facades. Windows were typically rectangular, sometimes arch-headed, and these were repeated regularly across upper facades.

Commercial buildings from this period were most commonly of two-storeys, with some single-storey and three or four-storey premises constructed. They were typically built as rows of attached buildings, as pairs, or as individual buildings with no side setbacks from adjoining properties and no front setback.

Within the City of Yarra, large numbers of commercial premises built in the Victorian periods are included in the Heritage Overlay as individually significant and contributory places within precincts. Comparative groups of buildings within existing, larger precincts, which broadly display characteristics similar to the precinct at 205-219 Victoria Parade, include amongst others:

- 409-417 Swan Street, Richmond (Burnley Street Precinct, HO474)

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- 91-101 Swan Street, Richmond (Swan Street Precinct, HO335)
- 129-141 Bridge Road, Richmond (Bridge Road Precinct, HO310)
- 178-186 Bridge Road, Richmond (Bridge Road Precinct, HO310)
- 97-135 Church Street, Richmond (Church Street North Precinct, HO454)
- 233-251 Victoria Street, Abbotsford (Victoria Street West Precinct, HO444).

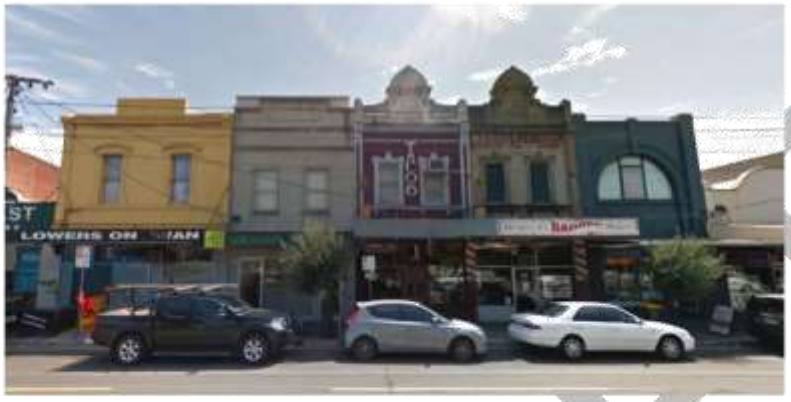

Figure 9. 409-417 Swan Street, Richmond (Burnley Street Precinct, HO474) (Google, Feb 2017).

Figure 10. 91-101 Swan Street, Richmond (Swan Street Precinct, HO335) (Google, Oct 2016).

Figure 11. 129-141 Bridge Road, Richmond (Bridge Road Precinct, HO310) (Google, Nov 2016).

Figure 12. 178-186 Bridge Road, Richmond (Bridge Road Precinct, HO310) (Google, Oct 2016).

Figure 13. 97-135 Church Street, Richmond (Church Street North Precinct, HO454) (Google, Oct 2016)

Figure 14. 233-251 Victoria Street, Abbotsford (Victoria Street West Precinct, HO444) (GJM, Sepotember 2017).

Like these places, the row at 205-219 Victoria Parade, Collingwood displays a range of characteristics which have strong associations with the Victorian period and the precinct remain highly intact to demonstrate these associations.

The commercial row at 205-219 Victoria Parade demonstrate the following Victorian characteristics:

- A variety of simple facade parapets, with pitched roofs behind;
- No front setbacks;

- Rendered walls;
- Rendered window frames, sills and hoods to upper storeys;
- Horizontal lines formed by parapets, cornices, and string courses; and
- Repetitive upper floor fenestration patterns.

Assessment Against Criteria

Following is an assessment of the place against the recognised heritage criteria set out in *Planning Practice Note 1: Applying the Heritage Overlay* (August 2018).

Criterion A: Importance to the course or pattern of our cultural or natural history

The Victoria Parade East Precinct, comprising 205-219 Victoria Parade, Collingwood, is illustrative of the historical development that occurred along a major, early commercial thoroughfare in the City of Yarra, particularly in the 'boom' period of the 1880s.

Criterion D: Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness)

The Victoria Parade East Precinct, comprising 205-219 Victoria Street, Collingwood is an intact, representative example of a row of Victorian commercial premises. The buildings clearly demonstrate the principal characteristics of nineteenth century development found along major thoroughfares within the City of Yarra and display typical features of the Victorian architectural style popular in Collingwood and across Melbourne more broadly, including parapeted facades with repetitive upper floor fenestration, rendered facades with decorative moulding and ground floor shopfronts.

Grading and Recommendations

It is recommended that the precinct be included in the Heritage Overlay of the Yarra Planning Scheme as a heritage place comprising seven 'Contributory' buildings.

Recommendations for the Schedule to the Heritage Overlay (Clause 43.01) in the Yarra Planning Scheme:

External Paint Controls?	No
Internal Alteration Controls?	No
Tree Controls?	No
Outbuildings or Fences not exempt under Clause 43.01-3?	No
Prohibited Uses Permitted?	No
Aboriginal Heritage Place?	No

Extent of the Recommended Heritage Overlay

To the property title boundaries, as indicated by the polygon on the aerial below.

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Figure 15. Recommended Extent of Heritage Overlay (Basemap Source: Nearmap, June 2020)

DRAFT

References

Hodgkinson, Clement, Noone, John, and Wilkinson, John, (1858), Plan shewing the streets and buildings in existence in East Collingwood on January 1st 1858 : with schedule of heights of bench-marks above low water datum at Queen's wharf [cartographic material]. Printed by De Gruchy & Leigh [Melbourne].

Melbourne and Metropolitan Board of Works (MMBW): Map No 28, dated 1897; Detail Plan No. 1210, dated 1899.

Sands & McDougall Directories (S&MC).

Rate Books (RB): Borough, then City of Collingwood, Barkly Ward, South Glasshouse Division: 1864, entries 137-140; 1870, entries 157-161; 1876, entries 172-177; 1879, entries 178-182; 1882, entries 178-182; 1883, entries 176-182; 1884, entries 181-187; 1885, entries 182-188; 1888, entries 234-241; 1893, entries 235-243; 1898-1900, entries 225-233.

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Victoria Parade East Precinct, 205-219 Victoria Parade, Collingwood Statement of Significance, August 2020 [DRAFT]

Heritage place: Victoria Parade East Precinct, 205-219 Victoria Parade, Collingwood, 3066	PS ref no.: HO TBC

What is significant?

The terraced row of late nineteenth century shop residences at 205-219 Victoria Parade, Collingwood.

Elements that contribute to the significance of the place include (but are not limited to):

- The terraced row's form, materials and detailing from its Victorian era period of construction, including its Victoria Parade elevation, fenestration, decorative parapets, mouldings and other details.
- Original roof forms and chimneys.
- Cast iron elements of the verandah to nos. 211-213 Victoria Parade.

The later (twentieth century) additions including rear additions, later shopfront glazing and the steel structure above the cast iron verandah posts to nos. 211-213 Victoria Parade are not significant.

How is it significant?

The Victoria Parade East Precinct at 205-219 Victoria Street is of local historical and architectural (representative) significance to the City of Yarra.

Why is it significant?

The Victoria Parade East Precinct, comprising 205-219 Victoria Parade, Collingwood, is illustrative of the historical development that occurred along a major, early commercial thoroughfare in the City of Yarra, particularly in the 'boom' period of the 1880s (Criterion A).

The Victoria Parade East Precinct, comprising 205-219 Victoria Street, Collingwood is an intact, representative example of a row of Victorian commercial premises. The buildings clearly demonstrate the principal characteristics of nineteenth century development found along major thoroughfares within the City of Yarra

and display typical features of the Victorian architectural style popular in Collingwood and across Melbourne more broadly, including parapeted facades with repetitive upper floor fenestration, rendered facades with decorative moulding and ground floor shopfronts (Criterion D).

Primary source:

Victoria Parade: Heritage Analysis and Recommendations, GJM Heritage, August 2020

Draft

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BUILT FORM REVIEW:
FITZROY WEST MIXED USE PRECINCT
HERITAGE ANALYSIS & RECOMMENDATIONS

PREPARED FOR:	City of Yarra
DATE:	12 November 2020
FILE:	2020-008

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This report is limited in its scope to consideration of post-contact cultural heritage and does not provide advice on any Aboriginal cultural heritage significance. The subject site forms part of the 37.5% of Victoria where there is currently no formally recognized Traditional Owner groups. Nonetheless, we acknowledge the Traditional Owners of the land at this place and pay our respects to their Elders past, present and emerging. For more information, please visit https://www.aboriginalvictoria.vic.gov.au

PROJECT TEAM

Jim Gard'ner | Director
Renae Jarman | Director
Felicity Coleman | Senior Heritage Consultant
Jessica Hogg | Heritage Consultant

Cover Image: *the south side of Kerr Street looking east from the intersection with Fitzroy Street (October 2018)*

GLOSSARY OF ABBREVIATIONS

Appendix 8	Incorporated Document 'City of Yarra Review of Heritage Overlay Areas 2007: Appendix 8 (revised May 2018)'
C1Z	Commercial 1 Zone
C2Z	Commercial 2 Zone
DDO	Design and Development Overlay
DPO	Development Plan Overlay
DELWP	Department of Environment, Land, Water and Planning
GRZ	General Residential Zone
HO	Heritage Overlay
I3Z	Industrial 3 Zone
MAC	Major Activity Centre
MUZ	Mixed Use Zone
NAC	Neighbourhood Activity Centre
NRZ	Neighbourhood Residential Zone
PPN	Planning Practice Note
VHR	Victorian Heritage Register

All photos taken by GJM Heritage in October 2018 and March 2020 unless otherwise stated.

DOCUMENT VERSIONS

Project No.	Version	Issued To	Date Issued
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EXECUTIVE SUMMARY

Hansen Partnership, on behalf of the City of Yarra (Council), has prepared a Built Form Review of three precincts: Alexandra Parade, Victoria Parade and Fitzroy West. This forms part of a larger project that considers built form controls for commercial high streets and mixed use / commercial zoned precincts within Fitzroy, Collingwood and (part) Clifton Hill (Figure 1). The purpose of this Built Form Review work is to determine where and how new development can appropriately occur. The desired built form outcomes will be translated into Design and Development Overlay (DDO) controls for the study area.

This report specifically considers the Fitzroy West Precinct (also referred to as the 'study area' in this report) which generally includes land within the northern part of Fitzroy between Nicholson and Brunswick Streets. The heritage advice contained within this report will help ensure that the Built Form Review and the subsequent DDO controls appropriately respond to the heritage fabric and values of the study area.

This report considers the built form parameters that are required to ensure the values of heritage places within the Fitzroy West Precinct are appropriately managed and protected, and that good heritage outcomes are being achieved for potential new or redevelopment on land subject to, or abutting, the Heritage Overlay.

Part II of this report provides an analysis of gaps, inconsistencies and inaccuracies in the current heritage controls within the study area and provides recommendations for addressing these issues.

This Heritage Analysis and Recommendation Report is presented in three parts:

Part I: The Project and Planning Framework

Part I introduces the project, the methodology applied to the project and the planning framework in which the project is occurring.

Part II: Heritage Analysis

Part II contains a heritage analysis of the study area. It details the heritage qualities and values of each precinct, identifies any gaps or issues with the existing heritage framework and provides recommendations for appropriately managing heritage places within the study area.

Part III: Built Form Recommendations

Part III contains specific built form recommendations to ensure heritage places and values are appropriately managed within a changing urban context. The specific recommendations are informed by modelling prepared by Hansen Partnership.

Figure 1. *Brunswick and Smith Street Study Area*
Source: 'Figure 2: Brunswick & Smith Street Built Form Review - Precincts' from the Victoria Parade Built Form Framework (Hansen Partnership, December 2020).

The Fitzroy West Precinct is denoted by the 'FW' and is mid-blue in colour.

PART I: THE PROJECT AND PLANNING FRAMEWORK

1.0 INTRODUCTION

1.1 YARRA'S HIGH STREETS & MIXED USE POCKETS

The City of Yarra is endowed with one of the largest and most highly intact collections of turn of the century 'High Streets' in the State of Victoria. These High Streets include the Major Activity Centres of Swan Street and Bridge Road in Richmond, Brunswick Street in Fitzroy, Smith Street straddling the suburbs of Fitzroy and Collingwood and Victoria Street, in Abbotsford and Richmond. They also include a number of Neighbourhood Activity Centres, including Gertrude Street in Fitzroy, Johnston Street in Fitzroy & Collingwood, Rathdowne Street and Nicholson Street in Carlton North, St Georges Road in Fitzroy North, and Queens Parade in Fitzroy North & Clifton Hill. Interspersed within these areas are various mixed use and commercial pockets, such as the Fitzroy West Precinct, that combine low scale residential development, former industrial and warehousing sites and local commercial offerings.

The value of these areas to the community is recognised by their inclusion in the Heritage Overlay of the Yarra Planning Scheme. However, the Activity Centre status of these High Streets and mixed use precincts presents a challenge: how do we manage the tension between the desire to retain these heritage values of these areas and the need to ensure the long-term sustainability of these centres and meet the growth objectives of the Yarra Planning Scheme?

1.2 BRIEF DESCRIPTION OF THE FITZROY WEST STUDY AREA

The Fitzroy West study area comprises the Mixed Use Zoned (MUZ) land within the area generally bounded by Alexandra Parade to the north, Brunswick Street to the east, Johnston Street to the south and Nicholson Street the west. It also includes the Commercial 2 Zoned (C2Z) land fronting Nicholson Street between Rose and Kerr streets and at the southeast corner of the intersection of Alexandra Parade and Nicholson Street. The majority of this area is designed as a Major Activity Centre within the Yarra Planning Scheme.

Streets are generally narrow (10m wide) with the exception of Westgarth and Kerr streets which have wider carriageways (20m) and are treelined.

The majority of the area is low-rise in scale with a diverse range of uses and building forms, including retail showrooms to Nicholson Street, small-scale factories and warehousing, offices and retail interspersed with residential uses. The study area includes rows of terraced housing, shop/residences, late nineteenth century and early twentieth century former factory buildings and single storey mid-late twentieth century factory and warehouse buildings. The nineteenth and early twentieth century buildings do not exceed two storeys in height. Buildings are generally constructed of face-brick or rendered masonry with punched window openings and a variety of hipped, pitched and saw-tooth roof forms.

Recent apartment developments on Kerr and Rose Street rise to around six storeys in height. No high-rise (10+ storey) development has occurred in the Fitzroy West Precinct.

The land to the north of the study area is predominately occupied by terraced housing dating from the late-nineteenth and early twentieth centuries. The Brunswick Street commercial High Street is located east of the study area, with the Johnston Street commercial High Street located to the south.

The small pocket at the southeast corner of the intersection of Alexandra Parade and Nicholson Street is occupied by a retail showroom, two low-rise office buildings and an at-grade car park dating from the second half of the twentieth century. These sites abut nineteenth century terraced housing to the east and south.

***Figure 2**: Fitzroy West precinct – outlined in black.*
Source: nearmap, 17 February 2020

1.3 BRIEF HISTORY OF FITZROY WEST

This historical summary is based on the City of Yarra Heritage Review Thematic History (Allom Lovell & Associates, 1998).

Land within Newtown (now Fitzroy) was first offered for sale in 1838, as part of the first 'suburban' land allotments outside of the Melbourne Town Reserve. It was the landowners that laid out the first major streets in the southern portion of Fitzroy – Brunswick and Gertrude Streets. Early development was subsequently concentrated in the south of Fitzroy, while the land to the north remained largely undeveloped, comprising mainly paddocks and semi-rural sites such as dairies, with housing developing primarily after 1850. Following the discovery of gold in Victoria in 1851 and the resultant gold immigration, Fitzroy became the fastest growing ward in Melbourne, with development increasing dramatically in the 1850s.

The Fitzroy West Precinct is located in the north-west portion of Fitzroy, essentially bound by Nicholson Street, Johnson Street, Brunswick Street and Alexandra Parade. From the 1850s this area established as a primarily residential area, with some light industrial development. The densely packed buildings of varying forms and scales are evident on the 1900 Melbourne and Metropolitan Board of Works (MMBW) plan (Figure 3). Evidence of the Victorian-period residential development within the precinct remains at 4 Henry Street (1858), the pair of houses at 51-53 Kerr Street (1860s), the cottage at 10 Argyle Street (c1850-c1880), terrace houses at 2-6 Spring Street (c1870-c1890) and the houses at 81-87 Westgarth Street (1880-1890). Interspersed amongst the residences were light industrial complexes, such as the Arthur Engineering Co. factory (c1870-c1890; 71 Argyle Street), the factory at 66 Leicester Street (c1864; later served as the Melbourne Chess Club), the former Cordial Factory (1870-1890; 14-16 Argyle Street) and the factory/warehouse at 70 Leicester Street (1873). Serving the surrounding community were the former Wesleyan Church (c1850-c1870; 406-408 Fitzroy Street) and the corner hotels, such as the West of England Hotel (c1860-c1890; 385-393 Fitzroy Street) and Leicester Arms Hotel (1872; 81 Leicester Street).

Following the 1890s Depression, the economic fortunes of Victoria recovered and development within the precinct continued at a slower but steady pace throughout the first half of the twentieth century. Some residences and industrial complexes were constructed during the Edwardian period, retaining the mixed character of the area. However, development during the Interwar and Postwar periods was chiefly industrial, with the construction of new factories and warehouses. Since the 1970s the precinct has again seen an increase in development, with approximately one in five properties re-developed with light industrial factories, warehouses, and residential buildings.

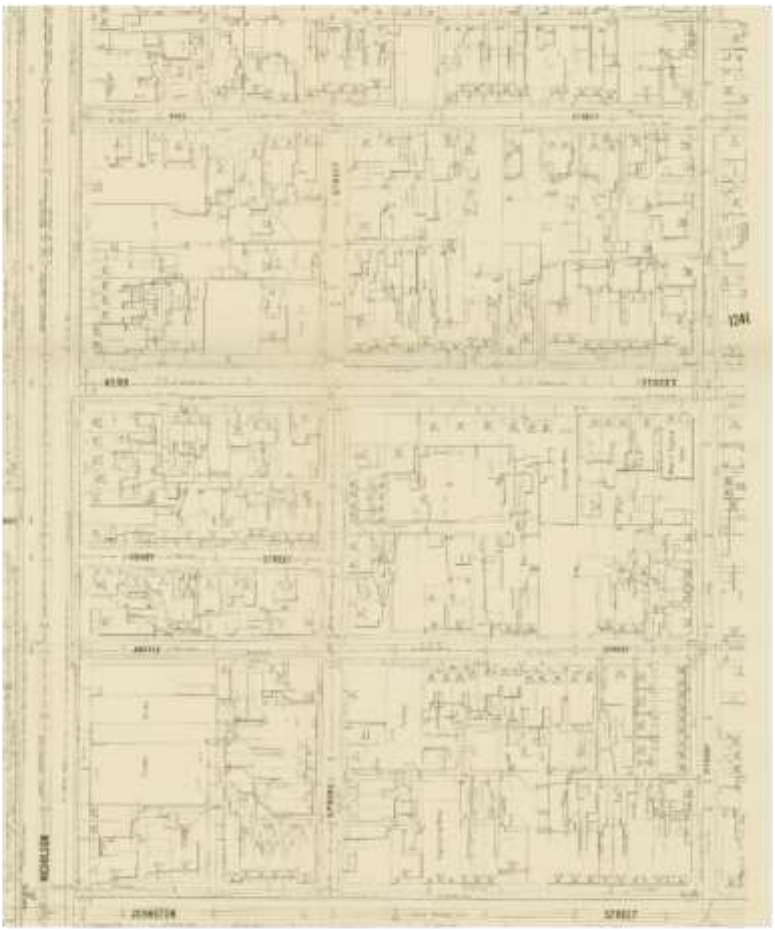

***Figure 3**: The dense development of the area between bounded by Rose, Brunswick, Johnston and Nicholson streets is evident by 1900. (MMBW Detail Plan 1241, dated 1900)*

***Figure 4**: Fitzroy Street, Fitzroy during road reconstruction c1927 (COYL, Images FL1169)*

***Figure 5:** Harrison's Cordial Factory from the corner of Argyle and Spring streets n.d. (COYL, Images FL1471)*

Sources

Allom Lovell & Associates (1998), City of Yarra Heritage Review, Thematic History.

City of Yarra Libraries (COYL), online picture collection.

Melbourne and Metropolitan Board of Works (MMBW) Detail Plan No. 1242, dated 1900.

1.4 SCOPE OF THE HERITAGE ANALYSIS & RECOMMENDATIONS REPORT

GJM Heritage has been commissioned to provide a detailed analysis of the heritage considerations for the Brunswick and Smith Street Built Form Review project area and to provide recommendations for the future management of these areas in the context of potential new development. This report considers the Fitzroy West Precinct and has been prepared simultaneously with those considering the Alexandra Parade and Victoria Parade precincts.

The following precincts have previously been considered in the *Brunswick and Smith Street Built Form Review*, GJM Heritage, 25 November 2019:

- Brunswick Street Activity Centre Spine
- Town Hall Mixed Use Precinct
- Smith Street Activity Centre Spine
- Johnston Street Activity Centre Spine
- Fitzroy East Mixed Use Precinct.

The proposed Gertrude Street Precinct and the MUZ area south of Gertrude Street between Young and Little Napier Streets was reviewed through the *Gertrude Street Built Form Framework: Heritage Analysis & Recommendations*, GJM Heritage, 9 December 2019.

The Collingwood Mixed Use Precinct was considered as part of a separate study: *Collingwood Mixed Use Pocket Heritage Analysis & Recommendations*, GJM Heritage, 6 June 2018.

The principal purpose of our engagement as part of this project is to ensure that any DDO controls arising from the Built Form Review take proper account of the heritage values of the precincts and individual buildings within the study area, in order to ensure appropriate weight is given to heritage when considering new development within the Fitzroy West Precinct.

The analysis within this report builds on the previous built form reviews and heritage analysis work conducted within the City of Yarra, and considers the parameters necessary to appropriately manage increased commercial and residential development within the precinct.

1.5 METHODOLOGY

The key documents informing the heritage analysis are:

- Yarra Planning Scheme Heritage Overlay Maps 1HO and 5HO
- Relevant Statements of Significance for heritage places and precincts within the study area and associated heritage studies
- Incorporated Document 'City of Yarra Review of Heritage Overlay Areas 2007: Appendix 8 (revised May 2018)' (Appendix 8)
- City of Yarra Heritage Grading Maps.

The above documents have been reviewed in the context of the following clauses of the Yarra Planning Scheme and the relevant Planning Practice Notes (PPNs) published by the Department of Environment, Land, Water and Planning (DELWP):

- The relevant provisions of the Yarra Planning Scheme, in particular, are:
  - Clause 15.03-1S 'Heritage conservation'
  - Clause 21.05-1 'Heritage'
  - Clause 22.02 'Development Guidelines for Sites Subject to the Heritage Overlay'
  - Clause 22.10 'Built Form and Design Policy'

  - Clause 43.01 'Heritage Overlay'
  - Clause 43.01 'Schedule to the Heritage Overlay'
  - Clause 71.02-3 'Integrated Decision Making'
- PPN 1: *Applying the Heritage Overlay* (August 2018) (PPN1)
- PPN 59: *The role of mandatory provisions in the planning schemes* (September 2018) (PPN59)
- PPN 60: *Height and setback controls for activity centres* (September 2018) (PPN60).

We note that the Minister for Planning has authorised the preparation and exhibition of Amendment C269yara to introduce a new Municipal Planning Strategy, local policies and supporting documents into the Yarra Planning Scheme. This amendment has gone on exhibition but is at an early stage of the amendment process, therefore the advice provided in this report has been informed by the relevant existing Local Planning Policy, in particular clauses 22.02, 22.03 and 22.10.

The following Planning Panels Victoria (Panel) reports are relevant to the implementation of the Built Form Review, particularly as many consider the appropriateness of DDOs (containing both mandatory and discretionary provisions) within activity centres (or in the case of Melbourne Amendment C240, the Capital City Zone) that are also subject, in part, to the Heritage Overlay:

- Boroondara C108 'Neighbourhood Centres and Commercial Corridors' (26 February 2014)
- Moreland Planning Scheme Amendment C134 'Brunswick Activity Centre' (15 May 2015)
- Melbourne Planning Scheme Amendment C240 'Bourke Hill' (4 May 2015)
- Bayside Planning Scheme Amendments C113, C114 and C115 'Mandatory provisions for the Sandringham Village, Bay Street and Church Street Activity Centres' (14 January 2015)
- Whitehorse Planning Scheme Amendment C175 'Box Hill Metropolitan Activity Centre' (6 October 2017).
- Stonnington Planning Scheme Amendment C223 'Glenferrie Road and High Street Activity Centre' (15 December 2017)
- Darebin Planning Scheme Amendment C161 'Fairfield Village' (3 December 2018)
- Yarra Planning Scheme Amendment C220 'Johnston Street Built Form Controls' (22 February 2019)
- Melbourne Planning Scheme Amendment C308 'Central Melbourne Urban Design' (16 May 2019)
- Yarra Planning Scheme Amendment C231 'Queens Parade Built Form Review' (31 October 2019)
- Yarra Planning Scheme Amendment C223 '81-95 Burnley Street and 26 Doonside Street, Richmond' (23 July 2020)
- Yarra Planning Scheme Amendment C191 'Swan Street Built Activity Centre' (15 October 2020).

The following reports have also informed this study:

- 'Review & Development of the City of Yarra Landmarks Policy – Landmarks & Views Assessment' prepared by Ethos Urban for the City of Yarra, October 2019.
- 'Fitzroy & Collingwood Built Form Review Stage 2: Fitzroy West Built Form Framework', Hansen Partnership, April 2020.
- Previous heritage built form reports and analysis prepared by GJM Heritage for the Brunswick and Smith Street, Swan Street and Queens Parade study areas.

We have approached the preparation of our heritage analysis as follows:

1. Completion of a desktop review of the above listed documents, heritage mapping and grading information, and the Statements of Significance for heritage places within the study area, including those places included in the Victorian Heritage Register (VHR). The extent of the Heritage Overlays were cross-checked against Google Streetview and VicPlan. This preliminary review familiarised the project team with the heritage fabric of the study area prior to fieldwork being undertaken.
2. Completion of fieldwork by Jim Gard'ner and Ros Coleman of GJM Heritage. All buildings and structures within the study area were inspected from the public realm with particular attention paid to the presentation of heritage buildings to the public realm (principally the street frontage). The purpose of the fieldwork was to:
   - Review the suitability of the extent of the existing Heritage Overlays and to identify if gaps existed.
   - Review the suitability of the existing Statements of Significance for heritage places against the extant heritage fabric and to identify where the statements required updating for the purposes of properly considering built form recommendations.
   - Review the extant heritage fabric against the heritage gradings contained within Appendix 8 and the Yarra Heritage Grading Map to identify any significant inconsistencies or inaccuracies.
   - Review the heritage buildings and streetscapes within the study area to identify the architectural and streetscape heritage features (e.g. parapets, roof forms, view lines, corner sites) that are relevant to a consideration of built form recommendations.
3. Participation in a workshop with Council and Hansen Partnership. The workshop:
   - Reviewed the proposed 'built form precincts' within the study area, characterised by existing built form characteristics.
   - Identified the desired future character of the built form precincts against heritage analysis and state and local planning policy drivers.

- Identified local landmarks.
- Tested built form parameters for new development against the existing heritage fabric utilising cross-sectional drawings with sight-lines taken at natural eye level (1.6m) on the public footpath, and 3D modelling prepared by Hansen Partnership. Views were only considered from public streets; laneway and private realm views were not assessed.

4. Finalisation of heritage recommendations for new built form parameters having considered the above.

2.0 ANALYSIS OF THE PLANNING CONTEXT

2.1 ACTIVITY CENTRE PLANNING AND HERITAGE

The *Planning & Environment Act 1987* and the Victoria Planning Provisions (VPP) requires planning and responsible authorities to take a balanced approach to strategic and statutory planning functions that consider potentially competing objectives in an integrated manner to deliver a net community benefit for current and future generations.

The objectives of planning in Victoria as set out in Section 4(1) of the Planning and Environment Act are:

- *To provide for the fair, orderly, economic and sustainable use and development of land.*
- *To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*
- *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*
- *To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*
- *To protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community.*
- *To facilitate development in accordance with the objectives set out in the points above.*
- *To facilitate the provision of affordable housing in Victoria.*
- *To balance the present and future interests of all Victorians.*

Clause 71.02-3 of the VPP addresses 'integrated decision making', and states:

> *Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social wellbeing affected by land use and development.*
>
> *Planning and responsible authorities should endeavour to integrate the range of panning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.*
>
> *Planning authorities should identify the potential for regional impacts in their decision making and coordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.*

Activity Centres and mixed use precincts that are also subject to extensive Heritage Overlay controls, such as the majority of the Fitzroy West study area, are an example of where the tension between competing planning objectives must be resolved in a balanced way. Fitzroy West has excellent public transport connections, vibrant retail, commercial and hospitality uses and a high demand for housing choice. The Fitzroy West Precinct houses a diverse range of uses and building types within which there are areas of highly intact late nineteenth century terraced housing and individual heritage buildings that are highly valued by the local community. A balance between the demand for more intensive development with the management of heritage values is therefore required. To achieve this, it is considered necessary that any DDO – and the background work that underpins it – specifically includes heritage considerations which frames the design objectives.

Amendment C269yara proposes to introduce Clause 11.03-1L to the Yarra Planning Scheme which provides local policy in relation to Major, Neighbourhood and Local Activity Centres and designates the majority of the Fitzroy West study area as a Major Activity Centre (MAC) (Figure 6). Note: the small part of the study area located at the southeast corner of the Intersection of Alexandra Parade and Nicholson Street does not form part of any proposed or designated Activity Centre.

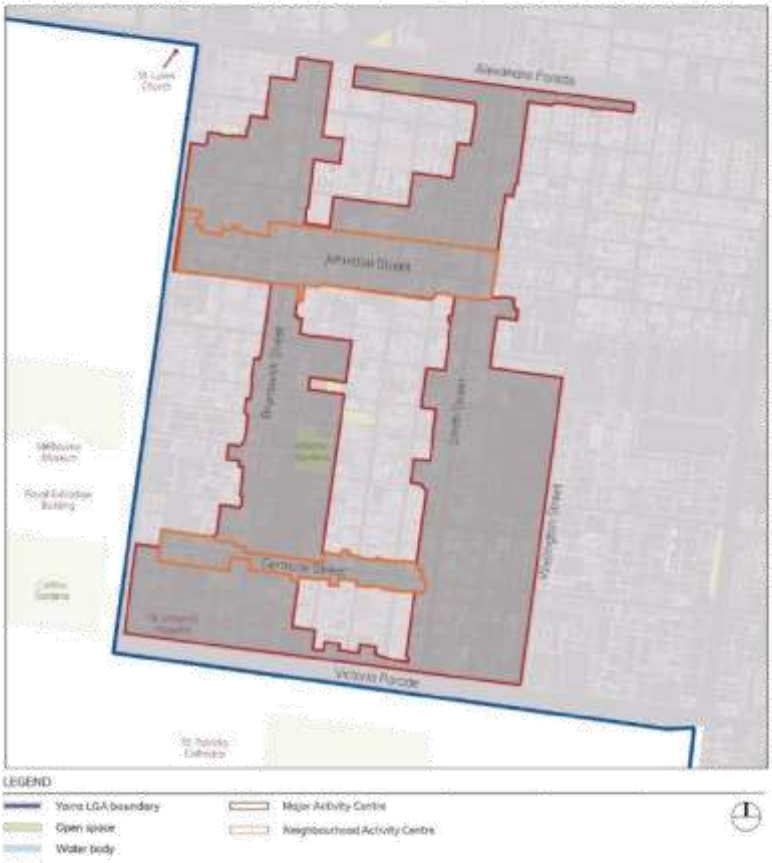

Figure 6. *Major and Neighbourhood Activity Centres in Fitzroy (Council endorsed version of Clause 11.03-1L)*

2.2 YARRA PLANNING SCHEME – HERITAGE PROVISIONS

Council has well-established heritage provisions within its planning scheme at Clauses 21.05-1 and 22.02. Also of relevance to the protection of the heritage values of the study area is Clause 22.03, which includes policy to protect the visual prominence of landmarks visible from within the study area and Clause 22-10 which includes policy for new development abutting land within the Heritage Overlay

2.2.1 Heritage Policy

The relevant objective within Clause 21.05-1 'Heritage' of the Municipal Strategic Statement (MSS) is *Objective 14: To protect and enhance Yarra's heritage places*. The relevant strategies to implement this objective are:

- *Strategy 14.1 - Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.*
- *Strategy 14.2 - Support the restoration of heritage places.*

- *Strategy 14.3 - Protect the heritage skyline of heritage precincts.*
- *Strategy 14.4 - Protect the subdivision pattern within heritage places.*
- Strategy 14.5 - *Protect the significant landscape and heritage within streets, parks, gardens, waterways or other open spaces*
- *Strategy 14.6 - Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*
- *Strategy 14.7 Protect sites of significance to Aboriginal people.*
- *Strategy 14.8 Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02.*
- *Strategy 14.9 Apply the Landmarks and Tall Structures policy at clause 22.03.*

Objective 14 and its associated strategies are considered to be generally compatible with appropriately sited and scaled higher density development within those parts of the Fitzroy West Precinct that are not solely occupied by rows of terraced housing. Strategy 14.3 to 'Protect the heritage skyline of heritage precincts' would not be achieved unless new upper-level development was to be of such low scale that it was fully concealed when viewed from the opposite side of the street as defined by the sightline tests described in Figures 2 and 3 of Clause 22.02. Avoiding any new visible built form above the parapets of buildings within the Heritage Overlay - although achieving the 'best' heritage outcome - would not enable a level of development that may reasonably be expected to be achieved within this diverse mixed use precinct, nor meet other strategic directions of the Yarra Planning Scheme. A balance therefore needs to be struck between achieving the outcome sought by Strategy 14.3 and meeting the development objectives of the City of Yarra. An acceptable heritage outcome would be one where, although new built fabric is visible above the parapets, roofline or chimneys of these buildings, the development is of a scale, set back and massing such that it retains the primacy of the heritage streetscape and avoids visually dominating existing heritage buildings and streetscapes.

It is considered that those areas of the study area containing only rows of single- or two-storey terraced housing cannot reasonably achieve higher density development without compromising the heritage value of these areas.

Clause 22.02 'Development Guidelines for Sites Subject to the Heritage Overlay' provides detailed guidance for development of places within the Heritage Overlay, including demolition. The relevant objectives of Clause 22.02 are:

- *To conserve Yarra's natural and cultural heritage.*
- *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
- *To retain significant view lines to, and vistas of, heritage places.*
- *To preserve the scale and pattern of streetscapes in heritage places.*
- *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*

- *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
- *To ensure that additions and new works to a heritage place respect the significance of the place.*
- *To encourage the retention of 'individually significant' and 'contributory' heritage places.*
- *To protect archaeological sites of cultural heritage significance.*

Again, these objectives do not preclude higher density development within the Fitzroy West Precinct with the exception of those parts of the study area occupied by single- and two-storey terraced housing. Larger scale development in these areas would be incompatiable with the objective '*To preserve the scale … of streetscapes in heritage places*'.

The demolition policy provided at Clause 22.02-5.1 encourages the retention of 'individually significant' and 'contributory' buildings within a heritage precinct. Removal of part of a heritage place or contributory element is contemplated if (in general terms) it can be demonstrated that the removal of the part will not adversely affect the significance of the building, or – for a contributory building – the part is not visible from the street, abutting a park or public open space.

Given that the significance of most heritage places within the Fitzroy West Precinct lies predominantly in their presentation to the public realm, including facade detailing and the fine-grained pattern of subdivision, it is considered that a certain amount of rear demolition and redevelopment can be contemplated under the existing (or proposed) heritage policy.

With the exception of those heritage places included on the VHR – and therefore regulated under the *Heritage Act 2017* – the heritage controls within the Yarra Planning Scheme effectively limits the control of heritage fabric within the study area to that which is visible from the street, including primary building facades, rear laneway views (where they exist) and visible roof and chimney elements..

In relation to 'New Development, Alterations and Additions', Clause 22.02-5.7.1 sets out the following policy:

General

Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:

- *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
- *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
- *Be visually recessive and not dominate the heritage place.*
- *Be distinguishable from the original historic fabric.*
- *Not remove, cover, damage or change original historic fabric.*

- *Not obscure views of principle façades.*
- *Consider the architectural integrity and context of the heritage place or contributory element.*

Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.

Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.

Minimise the visibility of new additions by:

- *Locating ground level additions and any higher elements towards the rear of the site.*
- *Encouraging ground level additions to contributory buildings to be sited within the 'envelope' created by projected sight lines (see Figure 1).*
- *Encouraging upper level additions to heritage places to be sited within the 'envelope' created by projected sight lines (for Contributory buildings refer to Figure 2 and for Individually significant buildings refer to Figure 3).*
- *Encouraging additions to individually significant places to, as far as possible, be concealed by existing heritage fabric when viewed from the front street and to read as secondary elements when viewed from any other adjoining street.*

Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.

The policy for full or partial concealment of rear additions to residential buildings as described in Figures 2 and 3 of the General Policy at Clause 22.02 is modified by the Specific Requirements at Clause 22.02-5.7.2 that applies to corner sites and sites with dual frontages, and industrial, commercial and retail heritage places:

Corner Sites and Sites with Dual Frontages

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

Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection.

...

Industrial, Commercial and Retail Heritage Place or Contributory Elements

Encourage new upper level additions and works to:

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

The specific provisions prevail over the general policy where there is a conflict or inconsistency. This establishes an expectation that new development behind industrial, commercial and retail buildings within the Heritage Overlay is not going to be fully or substantially concealed from public realm views. In addition, it should be noted that Kerr and Westgarth streets, like the typical commercial high streets in the City of Yarra, are 20m wide (building line to building line) whereas the remaining streets within the study area are approximately 10m wide, consistent with the residential examples shown in Figures 2 and 3 of Clause 22.02-5.7.1. In effect, the wider the street, the more visible a new rear development will be.

Although a greater level of concealment would generally provide a better heritage outcome, this specific sightline-based guidance in the heritage policy is designed to preserve and enhance the character and appearance of predominantly one and two-storey dwellings within typical narrow residential streets and the policy does not require that this be applied to multi-storey development of commercial or industrial buildings.

Further, the policy at 22.02-5.7.1 to 'Discourage elements which … are not contemporary with the era of the building such as … reflective glass, glass balustrades and pedestrian entrance canopies' may not achieve an appropriate urban design and architectural outcome in the industrial parts of the Fitzroy West Precinct. In such areas, a 'contrasting' or 'interpretative' design approach for new taller development above the heritage building is likely to be more recessive than a 'respectful' or 'historicist' one that would lead to the new additions inappropriately mimicking the historic form and potentially being more visually intrusive. Additions to the streetscapes of intact terraced housing and shop/residences should be more strictly informed by the materiality, rhythm, fenestration, roof forms and general heritage character of the streetscape.

2.2.2 Landmarks and Tall Structures

Clause 22.03 – 'Landmarks and Tall Structures' identifies a number of landmark buildings and advertising signs to which views should be protected. None of the landmarks and tall structures are located within the study area, nor does the study area provide any 'primary' or 'secondary' views of these structures as defined by the *Landmarks & Views Assessment* (Ethos Urban, October 2019).

2.2.3 Heritage Overlay

The head heritage provision of the VPP, Clause 43.01 'Heritage Overlay', has the following purpose:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*

- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

Clause 43.01-8 sets out 'Decision Guidelines' – in addition to those included in Clause 65 – that the Responsible Authority must consider before determining a permit application. These are:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.*
- *Any applicable heritage design guideline specified in the schedule to this overlay*
- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
- *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed subdivision will adversely affect the significance of the heritage place.*
- *Whether the proposed subdivision may result in development which will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the lopping or development will adversely affect the health, appearance or significance of the tree.*
- *Whether the location, style, size, colour and materials of the proposed solar energy facility will adversely affect the significance, character or appearance of the heritage place.*

While some of these considerations are not obviously consistent with the addition of higher density development behind heritage buildings, the first purpose of 43.01

and the first decision guideline encompasses the whole Municipal Planning Strategy and the Planning Policy Framework (integrated decision-making). Therefore, a balance must be struck by the Responsible Authority between achieving the objectives of the Heritage Overlay and meeting the objectives of other parts of the VPPs including Activity Centre policy and mixed use or commercial zoning. There is established precedent for new rear development to be accommodated behind the front part of heritage buildings in commercial and industrial precincts throughout inner Melbourne without substantially compromising the identified heritage values of these heritage places.

3.0 HERITAGE IN DESIGN AND DEVELOPMENT OVERLAYS – PANEL FINDINGS

Planning Panels Victoria has considered a number of Planning Scheme Amendments that are of particular relevance to this project: Bayside Amendments C113, C114 and C115, Boroondara C108, Darebin Amendment C161, Moreland Amendment C134, Melbourne Amendments C240, Stonnington Amendment C223, Whitehorse Amendment C175, and Yarra Amendments C220 and C231 and C191. While these mainly consider the commercial High Street typology they provide useful guidance for this mixed use precinct that also forms part of a Major Activity Centre.

Panels for these Amendments considered the appropriateness of mandatory controls in the context of PPN59 and, in their recommendations provide guidance on which circumstances mandatory controls should be applied. In response to submissions, they also considered the issue of whether or not the DDO control should include objectives to protect heritage or whether this should be the sole domain of the Heritage Overlay provisions. In addition to these panel reports, Amendment C123 to the Banyule Planning Scheme, approved via ministerial intervention, provides further instruction as to the role of mandatory controls.

In addition, Yarra Amendment C223, while not introducing a DDO does consider the appropriateness of design guidelines to protect the heritage values of industrial buildings, such as those located in the study area.

These reports also provide useful guidance on the form and wording of DDO controls.

In summary, Panel has concluded that:

- The Heritage Overlay identifies what is significant within an Activity Centre.
- Heritage is an appropriate issue for DDOs to provide guidance on to inform future development.
- Mandatory controls should be used in exceptional circumstances and their application should be guided by PPN59 and PPN60.
- Formulae defining the proportion of new built form that can be viewed above the street wall is an appropriate mechanism for informing the design and massing of new built form.

The approach taken in the formulation of the built form controls to manage development affecting heritage places is to complement existing policy. Clause 22.02 - 'Development Guidelines for Sites Subject to the Heritage Overlay' and relevant parts of Clause 22.10 – 'Built Form and Design Policy' have been taken as the starting point for the development of these complementary controls and policy.

Where existing policy is considered to be satisfactory, no additional policy has been recommended. However, specific policy has been recommended where it is considered necessary to provide guidance to recognise the current role of the Fitzroy West Precinct as diverse mixed use area and to enable this future development while protecting its heritage values.

A discussion of the most relevant of the Panel reports is provided below, and at Section 3.10 the recommendations for each panel are summarised with comment on the implications for this review.

3.1 YARRA PLANNING SCHEME AMENDMENT C231

GJM Heritage prepared the Queens Parade Built Form Heritage Analysis and Recommendations (11 December 2017) which informed C231yara. C231yara seeks to apply built form controls in the form of DDOs to Queens Parade, Fitzroy North and Clifton Hill and amend Heritage Overlay controls that apply within the study area.

Of relevance to the Fitzroy West Precinct, the Panel for Amendment C231 found that the strategic work undertaken in support of the Amendment was strong and that it assisted in justifying the majority of the built form parameters recommended in DDO16, particularly with respect to mandatory controls. At p29 of the Panel Report, the Panel notes that:

> *Exceptional circumstances exist for the application of mandatory controls for development as the QPAC (Queens Parade Activity Centre) includes a number of significant and contributory heritage places and heritage fabric set within a consistent streetscape form.*

Panel recognised that the wider, boulevard urban context would lead to a high visibility of upper-level development which in turn warrants the application of height limits, and linked the use of mandatory (instead of preferred) controls to the consistency of the heritage streetscape.

The Panel supported the mandatory upper-level setback of 8m within the Council preferred DDO and the combination of mandatory and preferred height controls where this will provide certainty where distinctive heritage fabric warrants greater protection. It also recognised that an Activity Centre with diverse built form can have areas of little change where growth can be accommodated elsewhere.

3.2 YARRA PLANNING SCHEME AMENDMENT C220

Johnston Street in Collingwood and the western part of Abbotsford (west of the railway viaduct) is a highly intact, predominantly Victorian/early-Edwardian era streetscape covered by the Heritage Overlay. C220yara introduced DDO controls along Johnston Street.

The Panel report provides commentary which is of relevance to a consideration of the proposed built form controls for Fitzroy West Precinct. In particular, the Panel stated stated:

> *In urban design terms, the 6 metre setback will retain the 'human scale' of Johnston Street, secure the distinction between the street wall and upper levels and will reduce the potential for overshadowing and adverse wind conditions.*
>
> ...

The Panel does not agree that less significant sections [of Johnston Street] warrant a different treatment. Less significant areas equally deserve to exhibit the overall urban design outcome: a strong street wall with a distinct setback to the mid level form.

To achieve these objectives the Panel recommended that a building envelope requirement be established that, rather than being based on a sightline test from the opposite side of the street new, required new development to be within a 45° 'angular plane' drawn from the maximum street wall height. In combination with upper-level front setbacks and maximum building heights, the angular plane creates a further upper-level setback consistent with the application of the policy objective at Clause 22.02-5.7.1 that each higher element to industrial, commercial and retail buildings should be set further back from the lower heritage built form.

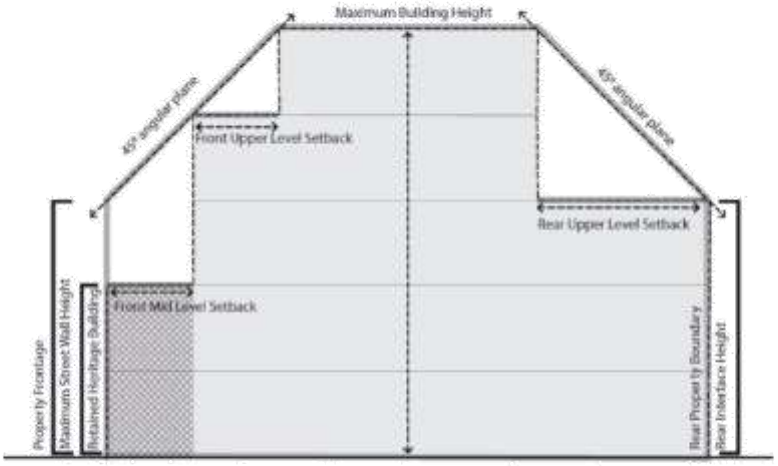

Figure 7: *Building envelope requirement – Heritage Building (Figure 1 in Schedule 15 to Clause 43.02 Design and Development Overlay).*

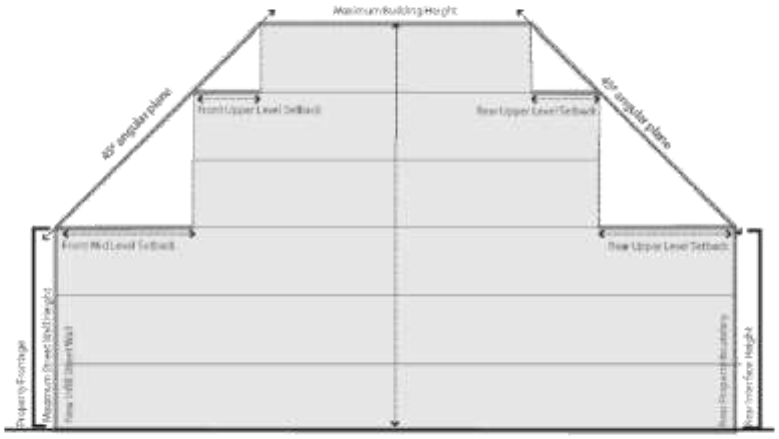

Figure 8: Building envelope requirement – Infill Building (Figure 2 in Schedule 15 to Clause 43.02 Design and Development Overlay).

3.3 YARRA AMENDMENT C191

Swan Street, Richmond is a Major Activity Centre with a highly intact turn of the century 'High Street' occupying a large proportion of its length, as well as smaller precincts and individual heritage places dispersed along its full extent.

Amendment C191yara proposes to introduce four DDOs (DDO25, DDO26, DDO27 and DDO28) to the Activity Centre, with the different controls reflecting the different existing physical conditions and the potential development opportunities evident throughout the Activity Centre.

In its report of 15 October 2020, the Panel supported the use of mandatory controls for street wall and 6m upper-level setbacks for individually significant heritage places and intact heritage streetscapes, as well as mandatory controls for overall building heights in intact heritage streetscapes. Mandatory controls were also supported to protect views to local landmarks.

For parts of the Activity Centre that present a less consistent and more diverse built form expression, discretionary controls were considered to be appropriate.

In contrast to the Panel considering C220yara, the C191yara Panel considered that it was unnecessary to provide additional parameters to guide the form of upper level development, instead finding that the combination of specified heights, setbacks and design requirements for new upper-level development to be "visually recessive", were sufficient.

3.4 MORELAND AMENDMENT C134

Sydney Road, Brunswick is a Major Activity Centre with highly intact, predominantly Victorian streetscapes covered by the Heritage Overlay. Gazetted on 11 August 2016, C134 introduced DDO18, DDO19 and DDO20. DDO18 set mandatory street wall heights on Sydney Road north of Brunswick Road of between 8m and 11m.

DDO18 provides a preferred minimum 5m setback for development above the street wall and to establish a preferred ratio of ¾ : ¼ street wall to new built form through the following design objective:

- *Be designed to ensure that it occupies no more than one quarter of the vertical angle defined by the whole building in the view from an eye-level of 1.7 metres on the opposite side of the street, as illustrated in Figure 1 below.*

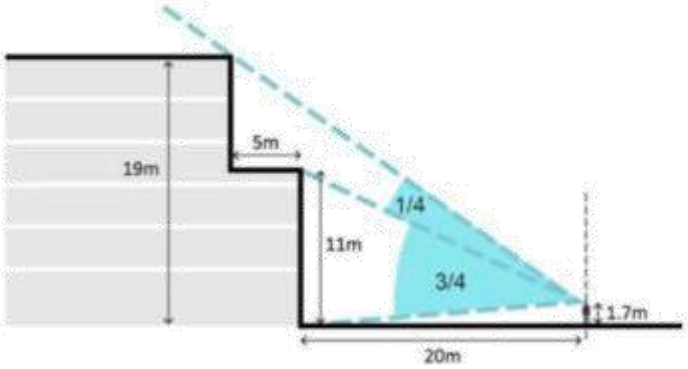

***Figure 9**: Upper-level setbacks along Sydney Road (Figure 1 in Moreland DDO18).*

DDO18 also provides a useful model for dealing with upper level development where the existing heritage building has a street wall height of less than the 11m street wall height provided in that control:

- *Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons new development may occupy more than one quarter of the vertical angle defined by the whole building outlined in Figure 1* [Figure 9 of this report] *above.*

3.5 BOROONDARA AMENDMENT C108 (C108)

The Panel considering C108boro discussed the use of mandatory street wall height, upper-level setbacks and overall heights across 31 Neighbourhood Activity Centres and three commercial corridors (Camberwell Road/Burwood Road and Canterbury Road).

In its report dated 26 February 2014, the Panel noted its strong support for the protection of heritage assets in Boroondara and recommended reinstatement of policy in the exhibited Amendment that encouraged new development on or adjoining a heritage place to be moderated. In particular, the Panel recommended that policy guidance be included that:

> *The combination of the height, setbacks and design treatment of new buildings should ensure a heritage place on or adjoining the site is not overwhelmed or dominated.*

The Panel also considered the use of mandatory height and setback controls, and recognised that the version of *Plan Melbourne* at that time foreshadowed stronger policy support for the use of mandatory provisions in neighbourhood centres (and residential areas) to increase planning certainty.

The Panel report recognised that mandatory provisions that prescribed standards without a capacity for departures have been supported in areas of consistently high heritage value with consistent character. While acknowledging the heritage values and 'main street' character of the Neighbourhood Activity Centres subject to C108, the Panel also recognised that new development will be visible behind the retained façades – particularly from oblique views – and that invisibility of upper-level development is either unreasonable or not necessary to maintain the primacy of the street wall.

In conclusion, the Panel accepted some use of mandatory controls within Boroondara's neighbourhood centres, but not in the commercial corridors:

> *The Panel recognises that Plan Melbourne foreshadows stronger policy support for the use of mandatory provisions in neighbourhood centres (and residential areas) to increase certainty. The Panel considers the combination of the street wall and upper level setbacks is critical in neighbourhood centres to maintain the established main street character and in these situations mandatory controls can be justified. However, we consider development with elements that exceed the nominated height and/or adopt alternative setbacks should not be precluded as they may produce better outcomes in some circumstances. The overall maximum height limits should therefore remain discretionary to allow for such circumstances.*

It was the Panel's conclusion that mandatory street wall heights which reflected the dominant character of the neighbourhood centres were acceptable (either 8m or 11m, depending on the context). It also found that if mandatory upper-level setbacks were to be adopted, they should be sufficient to ensure that in most cases the upper-storey will be clearly distinguishable from the street wall of the heritage building and be a recessive element in neighbourhood centre streetscapes. To achieve this, the Panel identified 5m as being an appropriate mandatory minimum setback for upper-level development in the context of Boroondara's Neighbourhood Activity Centres.

3.6 WHITEHORSE AMENDMENT C175

C175whit sought to implement the *Box Hill Metropolitan Activity Centre Built Form Guidelines* (Hansen Partnership, 2016) by rezoning land, introducing the Built Form Guidelines as a reference document and applying a new DDO Schedule to introduce built form controls. In its consideration of this Amendment, the Panel Report dated 6 October 2017 stated:

> *The Panel would have benefited from a more sophisticated analysis of the heritage precinct that utilised three-dimensional modelling, sight lines and view-sheds to help understand the rationale for the proposed heritage related controls. Without this basic information, it is difficult to determine whether the proposed controls are appropriate...*

and concluded that in the absence of this modelling:

- *The Built Form Responses regarding Heritage should not proceed in their current form.*

The absence of 3D modelling, and sight line and view-shed analysis in relation to those areas of the Box Hill Activity Centre that are subject to the Heritage Overlay appears to have been critical in Panel recommending that the proposed built form controls not be applied to address heritage.

3.7 STONNINGTON AMENDMENT C223

The Glenferrie Road and High Street Major Activity Centre encompasses the two linear commercial strips of Glenferrie Road and High Street in Malvern as well as two peripheral areas. The Heritage Overlay, which covers all of Glenferrie Road and most of High Street, acknowledges the area for its '*metropolitan significance as one of the major strip shopping centres to have retained its role into the late twentieth century, and for the quality and integrity of its Victorian, Federation and Interwar building stock*'.[1] C223ston sought to apply new built form provisions through the application of DDO19 to the entire Activity Centre, with precincts A and B covering the commercial and heritage precincts of Glenferrie Road and High Street respectively.

While the Amendment proposed an 8-10m setback above the street wall for precincts A and B, the Panel found it to be effectively a concealment of upper-level additions, supporting instead a 5m setback as adequate to respect heritage values without removing development capacity. This was derived from the precedent in the Boroondara Planning Scheme and was seen to equate to the typical first room of a Victorian-era building. The Amendment was otherwise generally supported by the Panel as an appropriate balance between protecting heritage values and enabling growth. Discretionary preferred maximum building heights between 14.5 metres (4 storeys) and 21 metres (6 storeys) were supported through precincts A and B.

The Panel also reviewed the drafting of discretionary and mandatory provisions, addressing the appropriateness of the terms 'should' and 'must'. The Panel noted that confusion arose from the DDO parent clause, and until such time as the clause is redrafted, the term 'must' is to be used for schedule requirements with the addition of further clarification if it can be varied with a permit.

3.8 DAREBIN AMENDMENT C161

C161 proposed to implement the '*Fairfield Village Heritage Assessment, 2017*' (Heritage Intelligence) and '*Fairfield Village Built Form Guidelines 2017*' (Hansen Partnership) through the application of Heritage Overlay (HO313) and DDO21 to the Fairfield Village Neighbourhood Centre. DDO21 created two sub precincts: Area 1 to

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[1] *Retrieved from Victorian Heritage Database, 18 January 2018 (https://vhd.heritagecouncil.vic.gov.au/places/31530)*

be applied to the proposed HO313 precinct; with the remainder of the Neighborhood Centre covered by Area 2.

The Panel found the application of the Heritage Overlay in conjunction with the DDO would enable the precinct *'to support a variety of housing typologies at increased densities'* in a way that *'allows the heritage place to be identified and understood'*. Further, the Panel supported the application of a mixture of mandatory and discretionary controls to Area 1 of the DDO in the form of:

- Mandatory maximum building heights at 14.5m and 17.5m (four and five storey), triggered by a lot width of 24m for five-storey.
- Mandatory maximum street wall height to be the greater of 8.5m or the adjacent street wall.
- Discretionary minimum front setbacks above the street wall at generally 4m, and 8m if constructing to a fifth level.
- The addition of a 3m side setback at the fifth-floor level – introduced as a discretionary provision to prevent the creation of a dominating wall of development along Station Street.

3.9 YARRA AMENDMENT C223

81-95 Burnley Street and 26 Doonside Street is a strategic development site occupied – in part – but two individual heritage places (HO252 and HO375) that formed part of the Repco factory, offices and laboratory. C231yara is a proponent-led Amendment that seeks to rezone the land from Industrial 3 Zone (I3Z) to Mixed Use Zone and introduce a Development Plan Overlay Schedule 15 (DPO15) to inform new development. The Panel considered, amongst other things, the appropriateness of including setback and height controls within DPO15, and found that an 8m preferred upper-level setback was appropriate above the intact Burnley Street façade of the former Repco factory building. Of relevance to the Fitzroy West Precinct, and the former factory buildings that occupy whole blocks or address prominent corner sites within the study area in particular, is Panel's conclusion that it was appropriate that the Built Form Requirements within DPO15 include an objective for new development to retain the three-dimensional form of the heritage building.

3.10 SUMMARY

Table 1 – Summarised recommendations and implications

YARRA AMENDMENT C231	
Recommendation	*Implications*
8m mandatory setbacks appropriate	An 8m mandatory setback can be justified for highly intact heritage streetscape.
Combination of preferred and mandatory heights.	The use of a balanced combination of preferred and mandatory heights is appropriate to respond to varied conditions.

Limiting heights within heritage precincts while allowing housing capacity to be met elsewhere in the broader precinct.	The most highly intact areas warrant low heights to protect heritage streetscapes.
YARRA AMENDMENT C220	
Recommendation	***Implications***
A 6m upper-level setback will retain the 'human scale' of Johnston Street, securing the distinction between the [heritage] street wall and upper-levels.	A 6m mandatory upper-level setback is an appropriate minimum.
The less significant sections of Johnston Street do not warrant lesser built from controls.	The same controls should be applied within the DDO irrespective of the significance of the street.
A preferred ratio of 2/3:1/3 street wall to new upper-level built from should be replaced with a 45 degree angular plane.	A 45 degree angular plane above a nominal 11m street wall height can inform the preferred mid-level built form rather than a ratio based sightline test, within a two-storey streetscape.
In combination with upper-level front setbacks and maximum building heights, the angular plane creates a further upper-level setback from the mid-level setback.	Upper-level development should be set further back from the street wall consistent with the guidance at 22.02-5.7.2.
YARRA AMENDMENT C191	
Recommendation	***Implications***
Combination of preferred and mandatory heights.	The use of a balanced combination of preferred and mandatory heights is appropriate to respond to varied conditions.
Limiting heights within heritage precincts while allowing housing capacity to be met elsewhere in the broader precinct.	The most highly intact areas warrant low heights to protect heritage place. Larger scale development should be encouraged outside these heritage places.
A 6m upper-level setback is necessary to avoid facadism and to retain the prominence of the heritage street wall	A 6m mandatory upper-level setback is an appropriate minimum for site-specific Heritage Overlays and intact heritage streetscapes.
The combination of upper-level front setbacks, maximum building heights and design requirements in respect of upper-level development is sufficient to manage taller built form in heritage contexts.	Further guidance in the form of a sight-line test or angular plane formulae is not warranted. Note: this conclusion differs from that of the Panel that considered C220yara.
MORELAND AMENDMENT C134	
Recommendation	***Implications***

The application of mandatory street wall heights to Sydney Road is justified.	Provides a justification for the application of mandatory street wall heights within streetscapes with consistent street wall heights.
Established a preferred ratio of ¾ : ¼ street wall to new upper-level built form.	The use of a sightline test to inform new upper-level built from is appropriate.
BOROONDARA AMENDMENT C108	
Recommendation	***Implications***
The combination of the height, setbacks and design treatment of new buildings should ensure a heritage place on or adjoining the site is not overwhelmed or dominated.	The DDO can included height, setback and design treatment controls to avoid new development dominating heritage places.
New development will be visible behind the retained façades – particularly from oblique views – and that invisibility of upper-level development is either unreasonable or not necessary to achieve the primacy of the street wall.	Some visibility of new upper-level development (including from oblique views) will be acceptable and complete concealment is not necessary.
Mandatory upper-level setbacks to the commercial corridors are justified.	Provides a justification for the application of mandatory upper-level setbacks within the study area.
WHITEHORSE AMENDMENT C175	
Recommendation	***Implications***
In the absence of modelling, built form heritage controls should not proceed.	That 3D modelling, sightlines and viewshed analysis should inform built form controls.
STONNINGTON PLANNING SCHEME AMENDMENT C223	
Recommendation	***Implications***
Panel supported a 5m upper-level setback instead of the 8-10m setbacks proposed that effectively concealed upper-level development.	There is an expectation that the visibility of some new upper-level built from will be acceptable and complete concealment is not necessary.
Application of the words 'should' and 'must' within controls.	Use 'should' for preferred controls and 'must' for mandatory controls.
DAREBIN AMENDMENT C161	
Recommendation	***Implications***
The application of mandatory building heights to Fairfield Village is justified.	Mandatory building heights within the study area may be appropriate to protect heritage values.
The application of mandatory street wall heights to Fairfield Village is justified.	Mandatory street wall heights within the study area may be appropriate to protect the heritage street wall.

The use of 'Valued Street Façade' provision not supported.	Confirms reliance on the Heritage Overlay to protect valued streetscapes.
YARRA AMENDMENT C223	
Recommendation	*Implications*
It is appropriate for built form guidance to include provisions to retain the three-dimensional form of heritage buildings.	Provides a justification for seeking to maintain the legibility of three-dimensional form of buildings that occupy whole, or a substantial part of the block or turn the corner such the former factories within the Fitzroy West Precinct.

4.0 MANDATORY AND DISCRETIONARY HEIGHT AND SETBACK CONTROLS

Planning Practice Note 59: The Role of Mandatory Provisions in Planning Schemes (September 2018) (PPN59) notes that the VPPs are predominantly performance-based and that mandatory provisions are the exception. The PPN sets out a series of five criteria against which to test proposed mandatory provisions, being:

- Is the mandatory provision strategically supported?
- Is the mandatory provision appropriate to the majority of proposals?
- Does the mandatory provision provide for the preferred outcome?
- Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?
- Will the mandatory provision reduce administrative costs?

Planning Practice Note 60: Height and Setback Controls for Activity Centres (PPN60) provides specific guidance on the use of mandatory height and setback controls in Activity Centres. In September 2018, DELWP published an updated version of PPN60 following the completion of the pilot project *Better Height Controls in Activity Centres*[2].

Of relevance to this matter, PPN60 provides an additional justification for the use of mandatory controls based on 'comprehensive strategic work', which reads:

> *Mandatory height or setback controls should only be applied where:*
>
> - *exceptional circumstances exist; or*
> - *council has undertaken comprehensive strategic work and is able to demonstrate that mandatory controls are appropriate in the context, and*
> - *they are absolutely necessary to achieve the preferred built form outcomes and it can be demonstrated that exceeding these development parameters would result in unacceptable built form outcomes.*

In relation to 'exceptional circumstances', PPN60 states:

> *Exceptional circumstances may be identified for individual locations or specific and confined precincts, and might include:*
>
> - *significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values.*
> - *sites of recognised State significance where building heights can be shown to add to the significance of the place, for example views to the Shrine of Remembrance...*

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[2] Refer to the Panel Report to Yarra C220 chapter 1.2 for further discussion on the pilot project and the amendment to PPN60.

To pursue mandatory controls, PPN60 also states:

> *Where exceptional circumstances are identified, mandatory height and setback controls should only be applied where they are absolutely necessary to achieve the built form objectives or outcomes identified from the comprehensive built form analysis. Where mandatory controls are proposed, it will need to be demonstrated that discretionary controls could result in an unacceptable built form outcome.*

The amended version of PPN60 reflects a broader shift over time within the application of the VPPs in favour of the use of mandatory controls.

For this project, the purpose of the Hansen Built Form Review and this report is to provide a comprehensive strategic basis for height and setback controls within the study area.

The Panels that considered C108boro, C161dare, C134, C220yara, C191yara and C231yara provide further guidance on the application of mandatory built form controls within the Fitzroy West Precinct.

These Panels concluded that for Heritage Overlays within Activity Centres:

- Mandatory controls were appropriate for street wall heights along Sydney Road, in 31 neighbourhood centres in Boroondara and Area 1 of the Fairfield Village Neighbourhood Centre
- Mandatory upper level setbacks were appropriate in many of Boroondara's neighbourhood centres
- Mandatory heights were appropriate for Area 1 of the Fairfield Village Neighbourhood Centre
- Mandatory setbacks were appropriate for Johnston Street with a mixture of preferred and mandatory height limited combined with a 45 degree angular plane test.
- Mandatory height and upper level setback controls were appropriate to protect the most highly consistent and intact parts of Queens Parade and to protect views to key landmarks.
- Mandatory height and upper level setback controls were appropriate to protect the most highly consistent and intact parts of Queens Parade.

Substantial parts of the Fitzroy West Precinct have intact rows of terraced housing or shop/residences where mandatory controls are appropriate to protect the visual primacy of the heritage buildings in these locations. The areas within the Fitzroy West Precinct without graded heritage buildings or intact streetscapes do not require the application of mandatory height or setback controls to protect the identified heritage values of HO334.

PART II: HERITAGE ANALYSIS

5.0 STUDY AREA ANALYSIS

5.1 PRECINCT BOUNDARY

***Figure 10**: Fitzroy West Study Area (black) overlaid an aerial image Source: adapted from VicPlan.*

As noted previously, this report focuses on the Fitzroy West Precinct, as shown in Figure 10 above. The following precincts were considered in the *Brunswick and Smith Street Built Form Review*, GJM Heritage, 25 November 2019:

- Brunswick Street Activity Centre Spine
- Town Hall Mixed Use Precinct
- Smith Street Activity Centre Spine
- Johnston Street Activity Centre Spine
- Fitzroy East Mixed Use Precinct.

Gertrude Street was the subject of the *Gertrude Street Built Form Framework: Heritage Analysis & Recommendations*, GJM Heritage, 9 December 2019.

The Collingwood Mixed Use Precinct was considered as part of a separate study: *Collingwood Mixed Use Pocket Heritage Analysis & Recommendations*, GJM Heritage, 6 June 2018.

The Fitzroy West Mixed-Use and the Victoria Parade Boulevard precincts are subject of separate reports prepared as part of this study.

The following sections contain an analysis of the heritage components and qualities of the Fitzroy West Precinct, including significant views. An analysis of future built

form character considerations has also been provided, along with recommended built form parameters to appropriately manage heritage values.

5.2 HERITAGE CHARACTERISTICS

The graded heritage buildings are typically two-storey shop/residences or single- and two-storey terraced housing. A number of the nineteenth century dwellings and shop/residences located in otherwise industrial streetscapes lack a cohesive heritage context. The graded factory buildings within the study area are typically constructed of masonry (often face brick) and have pitched roofs expressed through the gable end. Window openings are normally regularly spaced with larger openings on the ground floor for horse-drawn and motorised vehicle access.

The three buildings located in the isolated part of the study area at the intersection of Alexandra Parade and Nicholson Street are all graded 'not-contributory'.

The photos below are generally ordered from north to south and west to east within the study area.

Figure 11: *(left) Southeast corner of the intersection of Alexandra Parade and Nicholson Street ('not-contributory' within HO334).*

Figure 12: *(right) Houses, 76-80 Cecil Street, Fitzroy ('Contributory' within HO334)*

Figure 13: *(left) Houses and former shop/residence, 65-69 Westgarth Street, Fitzroy (no. 65 to the left outside study area and is zoned NRZ) ('Contributory' within HO334)*

Figure 14: *(right) Terraced houses, 81-87 Westgarth Street, Fitzroy ('Individually significant' within HO334)*

Figure 15: *(left) Shop/residences, 60-66 Westgarth Street, Fitzroy (no. 60 to the right outside the study area and zoned NRZ) ('Contributory' within HO334)*

Figure 16: *(right) Houses, 43-45 Leicester Street, Fitzroy (no. 43 outside the study area and zoned NRZ) ('Contributory' within HO334).*

Figure 17: *(left) former David Marshall Factory, 71 Leicester Street, Fitzroy ('Contributory' within HO334)*

Figure 18: *(right) former Leicester Arms Hotel, 81 Leicester Street, Fitzroy ('Individually significant' within HO334).*

Figure 19: *(left) Houses, 44-46 Leicester Street, Fitzroy) ('Contributory' within HO334).*

Figure 20: (right) *former factory, 62-66 Leicester Street, Fitzroy ('Individually significant' within HO334).*

Figure 21: *(left) former factory, 70 Leicester Street, Fitzroy ('Individually significant' within HO334).*

Figure 22: (right) *Fitzroy Market site from intersection of Fitzroy and Rose streets (ungraded within HO334).*

Figure 23: *(left) former Engineering Company Workshop, 50-52 Rose Street, Fitzroy (now only a façade) ('Contributory' within HO334)*

Figure 24: *(right) Factory/warehouse (now only a façade), 21-23 Rose Street, Fitzroy ('Contributory' within HO334).*

Figure 24: *(left) 282-298 Nicholson Street, Fitzroy (ungraded within HO334).*

Figure 26: *(right) former Wesleyan Church, 406-408 Fitzroy Street, Fitzroy ('Individually significant' within HO334).*

Figure 27: *(left) Factory/warehouse, 15-19 Kerr Street, Fitzroy ('Contributory' within HO334).*

Figure 28: *(right) Terraced houses, 51-67 Kerr Street, Fitzroy (nos 51-53 'Individually significant'; nos 55-67 'Contributory' within HO334).*

Figure 29: *(left) Shop/residences and terraced houses, 71-81 Kerr Street, Fitzroy ('Contributory' within HO334).*

Figure 30: *(right) Shop/residences and terraced houses, 85-91 Kerr Street, Fitzroy ('Contributory' within HO334).*

Figure 31: *(left) former Gumleaf Papers Pty. Ltd. Factory, 2 Kerr Street, Fitzroy ('Individually significant' within HO334).*

Figure 32: *(right) Terraced houses, 76-84 Kerr Street, Fitzroy ('Contributory' within HO334).*

Figure 33: *(left) Terraced houses, north side of Henry Street, Fitzroy ('Contributory' within HO334).*

Figure 34: *(right) House, 4 Henry Street, Fitzroy (Individual Heritage Overlay - HO422).*

Figure 35: *(left) Warehouse/workshop (later Jenkins Hall offices), 25 Argyle Street, Fitzroy ('Contributory' within HO334)*

Figure 36: *(right) Warehouses and apartments on the north side of Argyle Street, Fitzroy ('Not-contributory' within HO334 except no. 35-41 (now only a façade) which is 'Contributory' within HO334)*

Figure 37: *(left) Former Arthur Engineering Co. factory), 71 Argyle Street, Fitzroy ('Individually significant' within HO334) (October 2018)*

Figure 38: *(right) Façade of the former Arthur Engineering Co. factory under development (May 2020)*

Figure 39: *(left) Houses and warehouse, 10-16 Argyle Street, Fitzroy (no. 10 'Individually significant'; no. 12 'Contributory'; no. 16-14 "Jubilee" 'Contributory' within HO334). Note: numbering in Appendix 8 does not accord with current street addresses*

Figure 40: *(right) Former Harrison's Cordial Factory at 8-12 Spring Street and 14-16 Argyle Street, Fitzroy (VHR H2257).*

Figure 41: *(left) Former Union Hotel, 38-38A Argyle Street and house, 36 Argyle Street, Fitzroy ('Contributory' within HO334)*

Figure 42: *(right) Terraced houses, 48-52 Argyle Street, Fitzroy ('Contributory' within HO334)*

Figure 43: *(left) Terraced houses, 347-363 Fitzroy Street, Fitzroy ('Contributory' within HO334)*

Figure 44: *(right) Pair of terraced houses, 1-3 Spring Street, Fitzroy ('Contributory' within HO334)*

Figure 45: *(left) Terraced houses, 2-6 Spring Street, Fitzroy ('Individually significant' within HO334)*

Figure 46: *(right) Factory/warehouse, 1 Harrison Place, Fitzroy (ungraded within HO334)*

5.3 HERTIAGE TYPOLOGIES

The heritage buildings within the study area generally share the same typical characteristics which include:

- Attached terraced construction
- Masonry construction with less than 40% of the wall face comprised with openings such as windows and doors
- Painted render or face brick façades
- Parapeted front facades with solid parapets, open balustrades or more elaborate gables
- Either no setback from the street boundary, or a small garden setback
- Early or altered shop fronts to the shop/residences
- Verandahs or later canopies, particularly on the south side of the street
- Visible chimneys normally set back between 3m and 4m from the front elevation of terraced houses and shop/residences.

The following examples show typical building typologies found within the study area. It must be noted that buildings of a particular type will not necessarily demonstrate all the features identified below, and may include other features such as visible roofs and chimneys.

Figure 47: *Single storey terraced houses (46 Leicester Street, Fitzroy; 'Contributory' within HO334)*

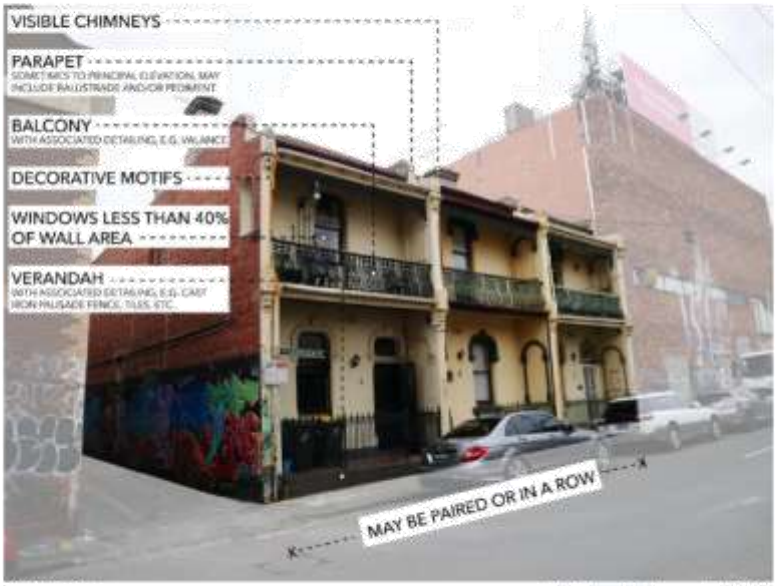


Figure 48: *Two storeyed terraced houses with verandahs (2-6 Spring Street, Fitzroy; 'Individually significant' within HO334)*

Figure 49: *Two-storeyed terraced houses without verandahs (71-81 Kerr Street, Fitzroy ('Contributory' within HO334)*

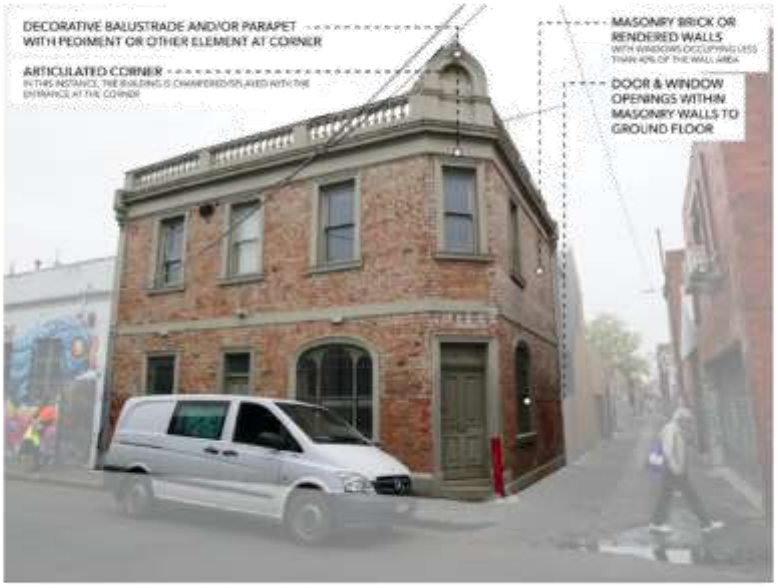


Figure 50: *Prominent corner building, (former Leicester Arms Hotel, 81 Leicester Street, Fitzroy; 'Individually significant' within HO334)*

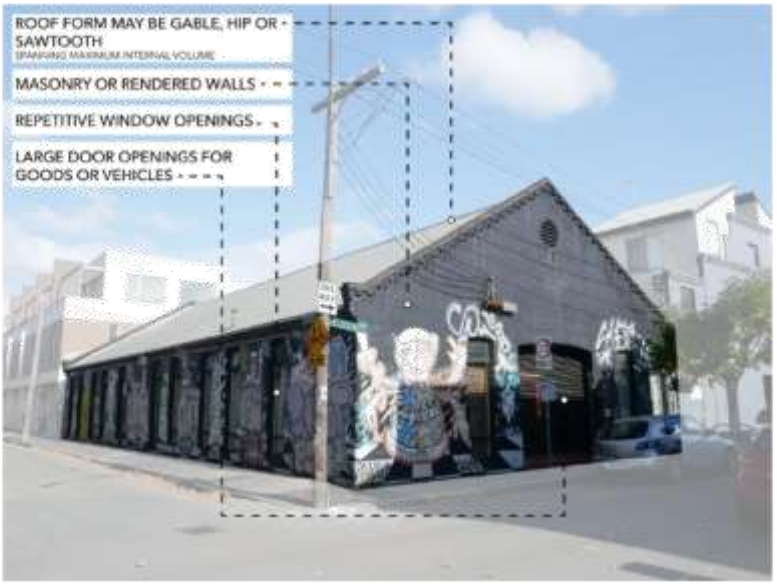


Figure 51: *Small scale (single storey) factory building (62-66 Leicester Street, Fitzroy; 'Individually significant' within HO334)*

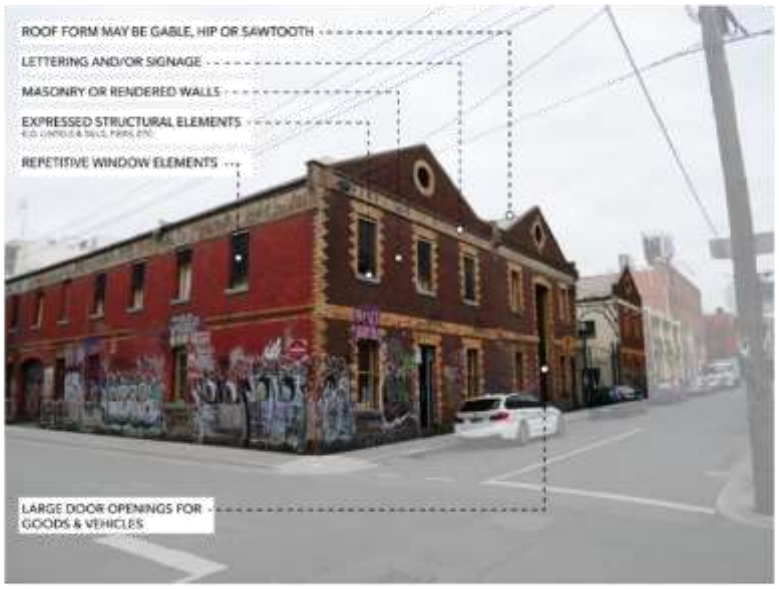


Figure 52: *Larger scale (two storey) factory building (Former Harrison's Cordial Factory at 8-12 Spring Street and 14-16 Argyle Street, Fitzroy; VHR H2257)*

5.4 LOCAL LANDMARKS

The Fitzroy West Precinct does not include any of the municipal-wide landmarks within the City of Yarra that are identified within Clause 22.03 'Landmarks and Tall Structures' of the Yarra Planning Scheme nor any of the views of these landmarks included in the report entitled *Landmarks & Views Assessment* (Ethos Urban, October 2019). Having said that, the location, scale, function and architectural form and detail of some buildings within the study area has resulted in them acting as local landmarks. These buildings serve as markers, wayfinding aids or landmarks in the local streetscape context due to their siting at key intersections or their scale within the surrounding streetscape.

In the context of the study area, the local landmarks include a number of the larger factory buildings and complexes on prominent street corners, and a place of worship (former Wesleyan Church). These buildings are generally identified within Appendix 8 as 'Individually Significant' or are included on the VHR and are described in Table 2.

Table 2 – Local landmark buildings

Address	Building Name	Type	Corner	Grading	Photograph
71 Argyle Street, Fitzroy	Former Arthur Engineering Co. factory	Two-storey factory on a prominent corner site (currently under development)	Argyle and Fitzroy streets	Individually Significant (HO334)	

406-408 Fiztroy Street, Fitzroy	*former Wesleyan Church*	Place of worship	-	Individually Significant (HO334)	
70 Leicester Street, Fitzroy	Former factory	Two storey-factory on a prominent corner site	Fitzroy and Leicester Streets	Individually Significant (HO334)	
8-12 Spring Street and 14-16 Argyle Street, Fitzroy	Former Harrison's Cordial Factory;	Two-storey factory complex on a prominent corner site	Argyle and Spring streets	VHR H2257	 Source: VHD, 28 May 2010

6.0 FITZROY WEST HERITAGE ANALYSIS

6.1 HERITAGE STATUS

6.1.1 Existing conditions

The vast majority of the Fitzroy West Precinct is subject to HO334 – South Fitzroy Precinct. The land not subject to HO334 is limited to the small area of land bounded by Henry Street to the north, Spring Street to the east, Argyle Street to the south and Nicholson Street to the west. There is a single place (Former Harrison's Cordial Factory at 8-12 Spring Street) included on the VHR within the study area and one individual Heritage Overlay place (the bluestone cottage at 4 Henry Street which is located just outside the western extent of HO334. Although the majority of the Fitzroy West Precinct is included within HO334, it has a diverse character with a large proportion of ungraded buildings within the study area (graded 'not-contributory' in Appendix 8). The majority of graded buildings are located in the southern part of the study area and address Argyle, Fitzroy, Henry, Kerr and Spring streets. Large parts of the study area, including whole streetscapes along Leicester and Rose streets, have few or no graded heritage buildings.

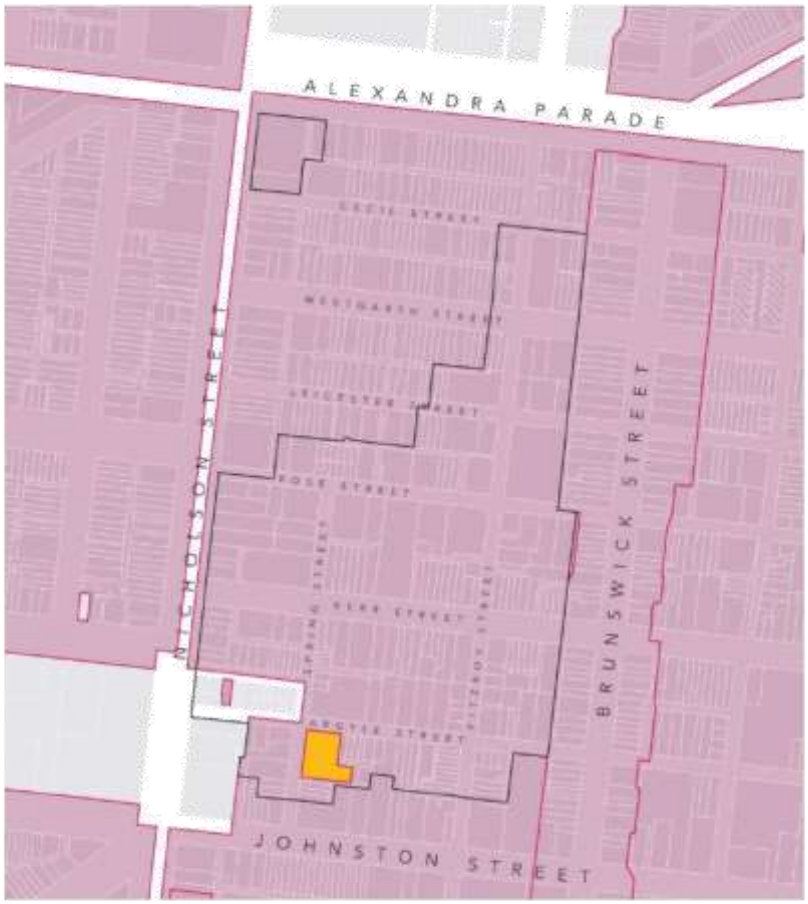


***Figure 53**: Heritage Overlay and VHR map – Victoria Parade precinct outlined in black.*
Source: adapted from VicPlan.

Heritage Overlay shaded in pink

VHR places shaded in yellow.

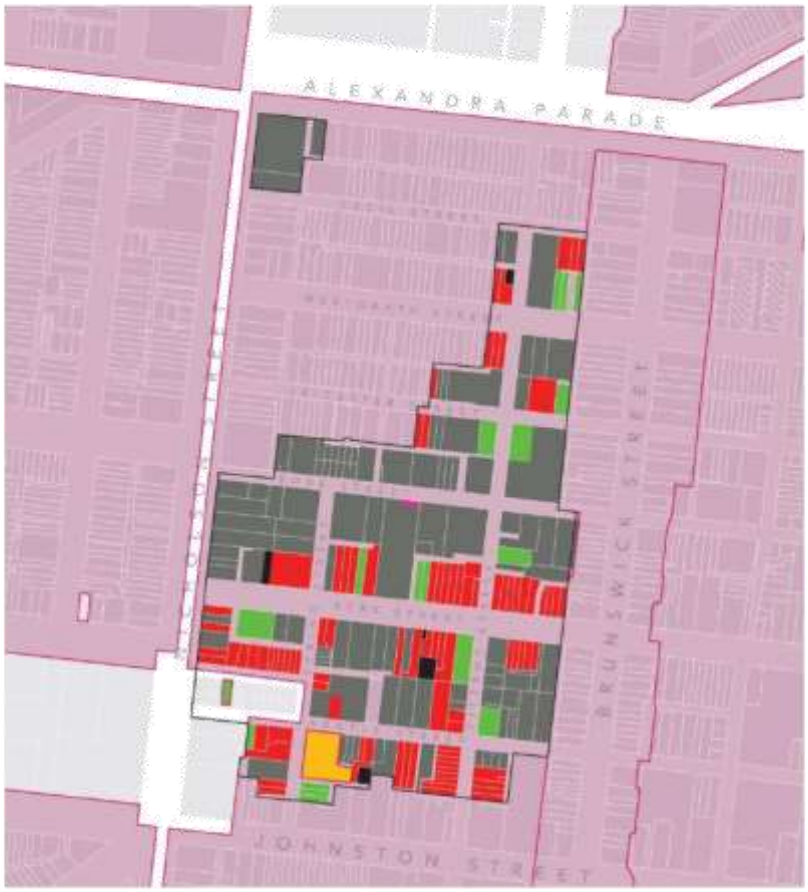


***Figure 54**: Current heritage gradings from Appendix 8 – Victoria Parade precinct outlined in black.*
Source: adapted from VicPlan

The existing heritage status for the buildings within the study area are listed in Table 3. We note that there are numerous inconsistencies between the street addresses provided within Appendix 8 and those identified in VicPlan. The addresses, dates of construction and gradings provided below are taken directly from Appendix 8.

Table 3 – Existing heritage status

VICTORIAN HERITAGE REGISTER				
VHR #	*Name*	*Address*	*Heritage Overlay*	*Date*
H2257	Former Cordial Factory	14-16 Argyle Street, Fitzroy	HO466	1870-1890
INDIVIDUAL HERITAGE OVERLAYS				

Heritage Overlay #	*Name*	*Address*	*Appendix 8 Grading*	*Date*
HO422		4 Henry Street, Fitzroy	Individually significant	1858
PRECINCT HERITAGE OVERLAYS				
Heritage Overlay #	*Name*	*Address*	*Appendix 8 Grading*	*Date*
HO334	South Fitzroy Precinct	6 Alexandra Parade: offices	Not contributory	1970 - 1980
		10 Argyle Street	Individually significant	1850 - 1880
		12 Argyle Street: Warehouse/workshop	Contributory	1850 - 1890
		25 Argyle Street: Warehouse/workshop, later Jenkins Hall offices	Contributory	1890 – 1910
		25-31 Argyle Street	Not contributory	1990 - 2000
		30-34 Argyle Street: Apartments	Not contributory	2000 - 2010
		35-41 Argyle Street: Warehouse/workshop	Contributory	1870 - 1910
		36 Argyle Street	Contributory	1880 – 1890
		38 Argyle Street (rear): Factory/warehouse / stable?	Contributory	1870 - 1890
		38-38a Argyle Street: Union Hotel, former	Contributory	1880 – 1890
		40-42 Argyle Street: warehouse/workshop	Not contributory	??
		43-47 Argyle Street: Factory, vacant land	Not contributory	1970 - 1980
		44-46 Argyle Street: Factory	Not contributory	??
		47-49 Argyle Street: Ungraded	Ungraded	??
		48-52 Argyle Street	Contributory	1870 - 1890
		51-53 Argyle Street: Factory	Not contributory	1970 - 1980
		54 Argyle Street: Factory	Not contributory	1970 - 1980

	55 Argyle Street: Exeter Cottages	Contributory	1850 - 1890
	56-60 Argyle Street: Apartments	Not contributory	1990 - 2000
	57 Argyle Street: Exeter Cottages	Contributory	1850 - 1890
	71 Argyle Street: Factory, Arthur Engineering Co.	Individually significant	1870 - 1890
	73-75 Argyle Street: vacant land	Not contributory	??
	77-79 Argyle Street: Factory/offices	Not contributory	1960 - 1970
	81-83 Argyle Street: Factory/workshop	Not contributory	1900 - 1915
	64 Cecil Street: Townhouse	Not contributory	1990 -2000
	66 Cecil Street	Not contributory	1940 – 1950
	70 Cecil Street: Apartments	Not contributory	1990 -2000
	76 Cecil Street	Contributory	1870 -1890
	78 Cecil Street	Contributory	1990 -1915
	80 Cecil Street	Contributory	1900 -1915
	347-363 Fitzroy Street	Contributory	1870 - 1890
	348-352 Fitzroy Street	Contributory	1870 – 1890
	354 Fitzroy Street: Factory, workshop	Contributory	1905 – 1915
	356 Fitzroy Street	Not contributory	1990 - 2000
	371 Fitzroy Street	Contributory	1870 - 1890
	373-379 Fitzroy Street: Factory	Not contributory	1990 - 2000
	380 Fitzroy Street	Ungraded	??
	385-393 Fitzroy Street: West of England Hotel	Individually significant	1860 - 1890
	403 Fitzroy Street	Contributory	1850 -1890
	405 Fitzroy Street: Factory/workshop	Contributory	1925 -1935

	406-408 Fitzroy Street: Wesleyan Church, former	Individually significant	1850 -1870
	467 Fitzroy Street	Ungraded	
	1 Harrison Place	Ungraded	??
	1-11 Henry Street	Contributory	1860 - 1870
	13-19 Henry Street	Contributory	1870 - 1880
	16-20 Kerr Street: Factory/warehouse	Not contributory	1930 - 1950
	23 Kerr Street: Factory/warehouse, offices	Not contributory	1930 -1940
	24-26 Kerr Street	Contributory	1900-1915
	25 Kerr Street	Contributory	1870 -1890
	27 Kerr Street	Contributory	1870 -1890
	29 Kerr Street	Contributory	1870 -1890
	30 Kerr Street: Factory/warehouse	Not contributory	??
	31 Kerr Street	Individually significant	1870 -1890
	32-34 Kerr Street: Factory/warehouse	Not contributory	??
	33-35 Kerr Street	Contributory	1870 1890
	36-38 Kerr Street: Factory/warehouse	Not contributory	1950 - 1960
	42 Kerr Street	Contributory	1870 – 1900
	44 Kerr Street	Contributory	1870 - 1890
	46 Kerr Street	Not contributory	1870 - 1890
	48 Kerr Street	Contributory	1900 – 1915
	51 Kerr Street	Individually significant	1860 – 1870
	52 Kerr Street	Ungraded	??
	53 Kerr Street	Individually significant	1860 -1870
	54 Kerr Street	Contributory	1870 – 1880
	55-63 Kerr Street	Contributory	1880 – 1890
	56 Kerr Street	Contributory	1870 – 1880
	58 Kerr Street	Contributory	1870 - 1890

	62 Kerr Street	Contributory	1870 – 1890
	64 Kerr Street: West of England Hotel	Individually significant	1860 - 1870
	65 Kerr Street	Contributory	1860 -1890
	67 Kerr Street: Shop & residence	Contributory	1860 -1870
	71 Kerr Street: Shop & residence	Contributory	1870 -1890
	73-81 Kerr Street	Contributory	1870 – 1890
	76-80 Kerr Street	Contributory	1870 - 1890
	82 Kerr Street	Contributory	1880 – 1890
	84 Kerr Street	Contributory	1880 – 1890
	85-91 Kerr Street	Contributory	1870 - 1890
	88-90 Kerr Street: Factory/warehouse	Not contributory	1960 – 1970
	44-46 Leicester Street Willow Cottage/Leicester Cottage	Contributory	1880 -1890
	45 Leicester Street: WH Veens Terrace	Contributory	1880 -1890
	47 Leicester Street	Not contributory	1990 -2000
	48 Leicester Street	Not contributory	1990 -2000
	49 Leicester Street	Not contributory	1990 -2000
	50 Leicester Street	Not contributory	1990 -2000
	56 Leicester Street	Not contributory	1990 -2000
	59-61 Leicester Street	Not contributory	1990 -2002
	66 Leicester Street: Factory, later the Melbourne Chess Club	Individually significant	1864?
	67-69 Leicester Street	Not contributory	1940 -1950
	70 Leicester Street: Factory/warehouse	Individually significant	1873
	71 Leicester Street: David Marshall Factory	Contributory	1912
	81 Leicester Street: Leicester Arms Hotel	Individually significant	1872

	268 Nicholson Street: J Wilson, Shop & residence, former	Contributory	1870 - 1890
	270-268 Nicholson Street: Factory/warehouse former?	Not contributory	??
	276 Nicholson Street: Shop	Contributory	1870 - 1890
	278 Nicholson Street: Shop	Not contributory	??
	280 Nicholson Street: Shop & residence	Contributory	1896
	282-298 Nicholson Street / 17 Kerr Street: Factory/warehouse	Contributory	1900 -1915
	300-302 Nicholson Street: Shop, showroom, factory/warehouse	Not contributory	
	304 Nicholson Street: factory/warehouse, offices	Not contributory	1930 -1940
	366 Nicholson Street: Offices	Not contributory	1990 - 2000
	368-370 (aka 372-374) Nicholson Street: Factory/warehouse, former, now Showroom	Not contributory	1925 – 1935
	15 Rose Street: Substation	Not contributory	1960 -1970
	17 Rose Street: Factory/warehouse	Not contributory	1960 -1970
	20-26 Rose Street: Factory/warehouse	Not contributory	1970 -1980
	21-23 Rose Street: Factory/warehouse	Contributory	1915 -1925
	25-33 Rose Street: Townhouses	Not contributory	1990 -2000
	35 Rose Street: Factory/warehouse	Not contributory	1930 -1950

	42-44 Rose Street: Units	Not contributory	2000 -2010
	45-53 Rose Street: Factory/warehouse	Not contributory	1960 -1970
	46-48 Rose Street: Factory/warehouse	Not contributory	1960 -1970
	50-52 Rose Street: Engineering Company Workshop	Contributory	1915 -1925
	54 Rose Street: Factory/warehouse	Not contributory	??
	61 Rose Street: Factory/warehouse	Not contributory	1970 -1980
	63-69 Rose Street: Townhouse	Not contributory	1990 -2000
	71-73 Rose Street: Martini Ice townhouses/units	Not contributory	1990 -2000
	74-76 Rose Street	Not contributory	1850 -1890
	75-87 Rose Street: Factory/warehouse	Not contributory	1950 -1970
	78-84 Rose Street	Not contributory	1930 -1940
	88-90 Rose Street: Apartments, former Factory/warehouse site	Not contributory	1990 -2000
	1-3 Spring Street	Contributory	1870 – 1890
	2-6 Spring Street	Individually significant	1870 - 1890
	5 Spring Street: Apartments	Not contributory	1990 - 2000
	11-13 Spring Street: Factory/warehouse, now offices	Contributory	1880 - 1930
	24-26 Spring Street	Contributory	1870 - 1890
	28-32 Spring Street: Factory/warehouse	Not contributory	1970 - 1980
	50 Spring Street: Factory/warehouse, now Apartments	Not contributory	1930 -1940

	62 Westgarth Street: shop & residence, former?	Contributory	1888
	64 Westgarth Street: shop & residence, former	Contributory	1888
	66 Westgarth Street: shop & residence, former	Contributory	1888
	67 Westgarth Street	Contributory	1880 -1890
	69 Westgarth Street: Shop, former	Contributory	1850 -1890
	70-76 Westgarth Street: Factory	Not contributory	1970 -1980
	78-82 Westgarth Street: Factory/warehouse	Not contributory	1960 -1970
	81 Westgarth Street	Individually significant	1880 -1890
	83 Westgarth Street	Individually significant	1880 -1890
	85 Westgarth Street	Individually significant	1880 -1890
	87 Westgarth Street	Individually significant	1880 -1890

6.1.2 Recommended Changes

The review of the existing extent and grading of buildings was limited to substantial omissions and anomalies. The review did not include a complete re-assessment of the 'Individually significant' / 'Contributory' / 'Not-contributory' gradings of individual buildings. As noted above, there are large areas of the study area that contain few, if any, graded buildings. These areas with few graded buildings lack visual cohesion and do not present as intact parts of a heritage precinct. They include the southeast corner of Alexandra Parade and Nicholson Street, and those properties that face Leicester and Rose streets.

A small number of extant properties are currently ungraded due to having been omitted from Appendix 8 (refer to Appendix I for the identified anomalies). These should be subject to a heritage assessment and included within the updated Incorporated Document entitled 'City of Yarra Database of Heritage Significant Areas' proposed to be introduced in the Yarra Planning Scheme through Amendment C245yara. Within the study area there are numerous errors in the gradings shown on the City of Yarra's heritage grading map which should be updated to accurately reflect Appendix 8 (or its successor document).

We also note that there is considerable inconsistency between the street addresses within Appendix 8 and those identified in VicPlan, particularly in the areas around the intersection of Argyle and Spring streets. In some cases, addresses are listed twice with different gradings provided for the sites listed. It is therefore recommended that Appendix 8 be redrafted to use VicPlan addresses to avoid confusion and the potential mis-identification of sites and their gradings. A thorough review of the addresses used in Appendix 8 did not form part of the scope of this study and errors in addresses have generally not been included in the table of the identified anomalies is provided at Appendix I.

6.2 ZONING

6.2.1 Existing conditions

The land within the Fitzroy West Precinct is zoned MUZ with the exception of the properties addressing Alexandra Parade and Nicholson Street (zoned C1Z).

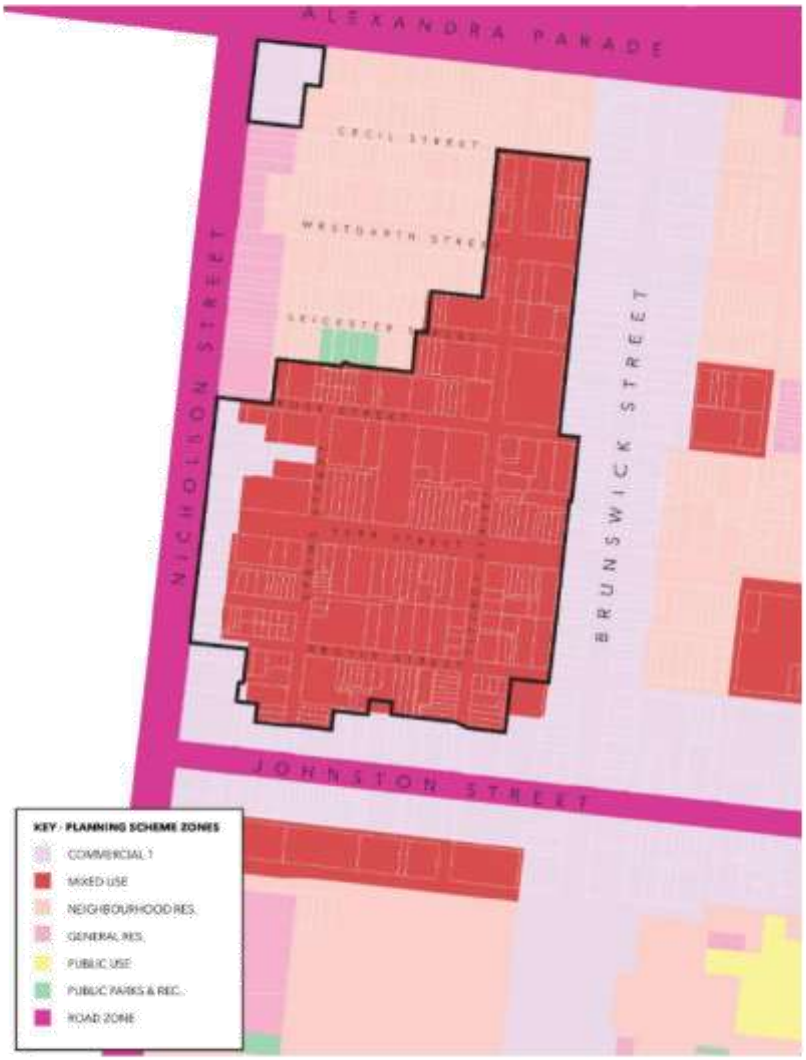


***Figure 55**: Zone map – Fitzroy West Precinct Outlined in black. Source: adapted from VicPlan.*

6.2.2 Recommended Changes

The zoning of the majority of the land MUZ reflects the historic and current mixed-use character of this part of Fitzroy. Having said that, there are a number of individual properties at the edges of the study area where one part of an identical terrace is zoned MUZ while the remaining part of this row (which is outside the study area) is zoned NRZ and is therefore subject to the more restrictive planning controls associated with that zone. In these instances, we recommend that those zoning anomalies be corrected so that the historic form and current use of the building is

reflected in the relevant zone, whether that be MUZ or NRZ. This includes the following recommended rezoning:

- pair of terraced houses at 44 and 46 Leicester Street from MUZ to NRZ;
- terraced house at 45 Leicester Street from MUZ to NRZ; and
- shop/residence at 60 Westgarth Street from NRZ to MUZ.

These examples of zoning inconsistency are illustrated in the table at Appendix I.

6.3 POTENTIAL FUTURE CHARACTER CONSIDERATIONS

The Fitzroy West Precinct contains a greater diversity of built form and a lower proportion of graded buildings than is typically found in Heritage Overlay precincts within the City of Yarra. This is particularly true of the northern part of the study area. Therefore, development within parts of the study area will be less constrained by heritage concerns than most other land subject to HO334. The land within the Fitzroy West Precinct at the intersection of Alexandra Parade and Nicholson Street has no heritage fabric and the lengths of Leicester and Rose streets within the study area lack any form of consistent or cohesive heritage built form. Having said that, these areas remain generally low rise with new development not exceeding six-storeys in height, and urban design considerations should inform their future preferred character. It is noted that a substantial proportion of Rose Street between Nicholson and Fitzroy streets has been developed over the past 10-20 years as multi-unit residential development of between four and six-storeys in height.

The majority of buildings that are graded 'Individually significant' or 'Contributory' within the precinct are rows of single and two-storey terraced houses. These terraces are made up of small, narrow sites that are generally not appropriate for multi-storey mixed-use development. New development associated with this type of heritage fabric would normally be moderated to two or three-storeys in height through the application of the NRZ or GRZ zoning respectively. The fine-grained character of these streetscapes should be maintained, and new development should be scaled to avoid visually dominating the historic terraced housing. In the cases of these terrace rows a DDO is required to moderate the height of future development.

The industrial (factory, warehouse or workshop) buildings are single or two-storey and are generally small in scale compared with the larger industrial complexes found elsewhere in the municipality such as in the eastern part of Fitzroy or within Collingwood. New development should respect the scale of these buildings, many of which define the urban form of the precinct, and maintain their visual prominence within the streetscape and as local landmarks.

6.4 RECOMMENDED BUILT FORM PARAMETERS

Any DDO proposed for the Fitzroy West Precinct should apply built form guidance to ensure that new built form is respectful of the heritage places within the area.

A DDO control applied to properties within the Fitzroy West Precinct should ensure new development respects the heritage significance of the graded buildings and is sited, massed and designed to be visually recessive and to not dominate the heritage

place. This includes ensuring that appropriate interfaces are provided between the single- and two-storey scale heritage buildings and potential new development.

There are a substantial number of historic residential dwellings including intact rows of single or two-storey terraced houses within the study area. While the inclusion of these within the MUZ appropriately reflects the diverse mix of uses within the study area as whole, these dwellings have little ability to be substantially redeveloped without adversely affecting their heritage values. In these instances, which are residential in history, built form and current use, height controls analogous to those within the NRZ or GRZ should be applied and the residential policies at Clause 22.02-5.7.1 of the Yarra Planning Scheme should inform new development.

GJM participated in the analysis of the Fitzroy West Precinct with Hansen Partnership and the City of Yarra, during which:

- Heritage and urban context information, known planning scheme Amendments, and past and current planning applications was collected and analyzed; and
- Built form parameters from the above analysis were drawn and then tested, firstly via cross-sectional drawings and then via a 3D model to determine their appropriateness.

Informed by the analysis and testing methodology outlined above, it is recommended that a DDO should seek built form outcomes that:

- Retain the visual prominence of local landmarks in the streetscape.
- Retain chimneys and principal roof forms visible from the public realm (excluding laneways).
- Ensure new development within the Heritage Overlay does not visually dominate the existing heritage fabric.
- Ensure any upper-level or infill development (in more intact streetscapes) is subservient to heritage fabric and is visually recessive in mass, scale and materiality.
- Avoid exceeding the six-storey (20m) scale of the existing and emerging built form on redevelopment sites and three-storeys (11m) behind graded terraced housing.
- Encourage the top-most level (or levels) of new development to be set further back from a heritage frontage (as encouraged at Clause 22.02-5.7.2) and treated as a visually separate roof top element.
- Retain the visual prominence of the industrial buildings at key corners, including at the intersections of Leicester and Fitzroy streets, Argyle and Spring streets and Argyle and Fitzroy streets.
- Establish a street wall height for infill development within consistent heritage streetscapes such as Kerr Street that reflects the established two (Victorian-era) storey scale of those precincts.
- Encourage the ground level setback to match the lesser setback of any neighbouring heritage buildings.

- Ensure that the heritage buildings remain prominent within the Fitzroy West Precinct and retain their three-dimensional form as viewed from the public realm to avoid 'facadism'. This will require new upper-level development to be set back a minimum of 6m from the street wall and for redevelopment to respect the existing inter-floor heights of the heritage fabric

7.0 BUILT FORM TESTING

To assist in the translation of the 'Recommended Built Form Parameters' in Part II into specific guidance that could be translated into a DDO control, the heritage analysis was reviewed against cross-sectional drawings of potential development envelopes and 3D computer modelling prepared by Hansen Partnership and the City of Yarra to test the appropriateness of particular built form outcomes that achieved the intent of the 'Recommended Built Form Parameters'.

As well as the cross-sectional drawing studies, 3D computer modelling using Sketchup Pro™ of potential bulk and massing envelopes for the study area was also interrogated. The existing built form was modelled along with approved, but not yet constructed, development in the Fitzroy West Precinct. It was used as a 'working' massing model to inform heights and setbacks on key development sites and to provide a comparative visual analysis. Given the relatively small proportion of the study area that is subject to the Heritage Overlay the 3D modelling was particularly useful in testing the generally more generous built form parameters applied to the larger, less-encumbered potential development sites rather than those with intact heritage buildings.

The Sketchup model was also interrogated to consider the impact of new buildings from the natural eye level (1.6m) on the public footpath.

Extensive field work was undertaken and site visits were used to inform the recommendations made in this report. Views of heritage places were only considered from the public footpath or from the central median strip with particular emphasis placed on intersections and tram stops where pedestrians are likely to dwell.

PART III: BUILT FORM RECOMMENDATIONS

8.0 BUILT FORM RECOMMENDATIONS

Any DDO applied to the Fitzroy West Precinct should include provisions to complement, but not duplicate, the decision guidelines at Clause 43.01-8 (Heritage Overlay), State Planning Policy at Clause 15.03-1S and local policy within Clauses 22.02, 22.03 and 22.10 (or as translated into the post-VC148 Planning Policy Framework through Amendment C269yara) of the Yarra Planning Scheme to inform new development.

Having regard to the heritage conditions within the study area as well as cross-sectional drawings and 3D modelling prepared by Hansen Partnership and the City of Yarra, it is recommended that the built form controls set out in 8.1 below be applied to new development to ensure appropriate weight is given to the heritage values within the study area.

The cross-sectional drawings and 3D modelling helped assess whether or not the upper-level development would 'be visually recessive and not dominate the heritage place' as sought at Clause 22.02-5.7.1. The setting back of new development in accordance with the sightline at Clause 22.02-5.7.1, combined with the recommended three-storey maximum building heights, should protect the heritage values of the terraced housing that makes up the majority of the historic built form within the study area.

The redevelopment of the graded industrial buildings within the precinct, should be considered in the context of the scale, heritage fabric, roof forms and the citation or Statement of Significance for the place (if available).

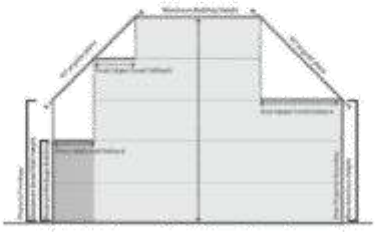
Buildings with prominent roof forms that contribute to their heritage significance - examples of which include the former factory at 62-66 Leicester Street or the former Wesleyan Church at 406-408 Fitzroy Street - will provide little or no opportunity for development above the historic form.

Buildings graded 'Individually significant' and 'Contributory' or included in the VHR are referred to as 'heritage buildings' within the table below and those graded 'Not-contributory' or that are vacant are considered 'infill sites'. The Executive Director, Heritage Victoria will be the principal decision-maker in relation to any redevelopment of the Former Harrison's Cordial Factory at 8-12 Spring Street and 14-16 Argyle Street, Fitzroy.

8.1 RECOMMENDED DDO CONTROLS

Built Form Element	Mandatory	Preferred	Rationale
Street wall height (infill development) within or immediately adjacent to land subject to the Heritage Overlay	-	Match the parapet height of the adjacent heritage building to the width of the property boundary for a distance of 6m, whichever is less.	To ensure new built form responds to its immediate heritage context.

Front setback (infill development) within or immediately adjacent to land subject to the Heritage Overlay	-	Match the lesser setback of the adjacent heritage building from any and all street frontages excluding laneway frontages.	To ensure new built form responds to the heritage context which generally has a small or no setback.
Minimum setbacks above street wall / front façade	6m from the principle street frontage. Note: the setbacks for individual heritage places should be informed by their Statements of Significance and the historic fabric of the heritage place.	6m from the secondary street frontage on corner sites.	While the built form of heritage buildings varies within the Fitzroy West Precinct, there are areas of largely intact heritage streetscapes within the precinct. A mandatory minimum 6m setback from the principle street frontage of heritage buildings is appropriate given the low scale built form and the need to protect the visual prominence of the heritage buildings. This distance will also retain the majority of visible chimneys and roof forms. The application of a mandatory 6m setback is consistent with that through DDO25, DDO26, DDO27 and DDO28 proposed to be introduced through C191yara. A larger setback from the principal facades of heritage buildings may be required development to be set back, and for the retention of an appropriate and legible three-dimensional heritage form. A preferred setback is appropriate from secondary street frontages to allow for the range of building forms. This preferred setback on corner sites will help retain the legibility of the heritage building's three dimensional form.
Maximum building heights within the Heritage Overlay (commercial and industrial buildings)	-	14m (4 storeys) to 24m (7 storeys) depending on the depth of the block, neighbouring built form and context.	The variety of site depths, existing urban form and interface conditions require a range of maximum building heights. A preferred control will enable a wide range of design responses. The overall height and building form above heritage buildings should be informed by the preferred building envelope defined by the 45° angular plane described in DDO15

			 *Heritage Building*
Maximum building heights within the Heritage Overlay (residential buildings)	11m (3 storeys)	-	The majority of heritage fabric within the study area are single- and two-storey residential buildings, many of which are located in intact terrace rows. This building type and use is generally included within NRZ or GRZ across the City of Yarra and elsewhere in metropolitan Melbourne. The application of a 11m (3 storey) height limit will moderate additions to that considered acceptable for this building type across Melbourne and will, with appropriate setbacks, ensure that the new built form will remain secondary to the retained heritage fabric. A mandatory provision is appropriate as it matches the nature of the control applied to buildings of this form and use elsewhere within the City of Yarra.

8.2 ADDITIONAL GUIDANCE

The heritage policy proposed as part of C269yara includes specific strategies to address new development and alterations to commercial and industrial heritage places. If these provisions are implemented through Amendment C269yara, additional heritage design requirements are not likely to be needed within a DDO. However, if new development is to be informed by the existing heritage provisions at Clauses 15.03-1S, 21.05-1, 22.02 and 43.01 of the Yarra Planning Scheme, we recommend that the following heritage design requirements be applied to a DDO:

- New infill development within intact or consistent heritage streetscapes should:
  - Interpret the historic façade rhythm, including fenestration patterns and proportions, the relationship between solid and void, and the existing module of structural bays.
  - Retain the visual prominence of prominent corner buildings and local landmarks.
  - Be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.

  - Ensure façade treatments and the articulation of new development are simple and do not compete with heritage buildings.
  - Avoid the replication of existing decorative features and architectural detail.
- The adaptation of existing heritage buildings should:
  - Discourage highly reflective glazing in historic openings.
  - Ensure the inter-floor height of the existing building is maintained and avoid new floor plates and walls cutting through historic openings.
  - Encourage the retention of solid built form behind retained facades and avoid balconies behind existing openings.
- New upper-level development behind existing heritage buildings should:
  - Retain the visual prominence of parapet and roof-top elements including balustrades, pediments, lanterns, towers, belvederes, urns and other architectural features, where these exist.
  - Be set back to retain the visual prominence of prominent corner buildings and local landmarks.
  - Ensure that the design and setback of the addition does not visually dominate the heritage building or surrounding heritage places.
  - Retain the primacy of the three-dimensional form of the heritage building.
  - Incorporate materials and finishes that are recessive in texture and colour.
  - Generally utilise visually lightweight, but high quality, materials that create a juxtaposition with the heavier masonry of the heritage facades.
  - Incorporate simple architectural detailing so it does not detract from significant elements of the existing building or streetscape.
  - Provide a recessive backdrop to the heritage street wall and individual heritage buildings.
  - Avoid highly articulated facades with recessed and projecting elements.
  - Avoid highly contrasting or vibrant primary colours.
  - Avoid unarticulated façades that give a bulky appearance, especially from oblique views.
  - Be articulated to reflect the fine-grained character of narrow sites.
  - Encourage that upper-level development behind rows of identical or similar shop/residences is consistent in form, massing and façade treatment as existing upper-level development (where this exists).

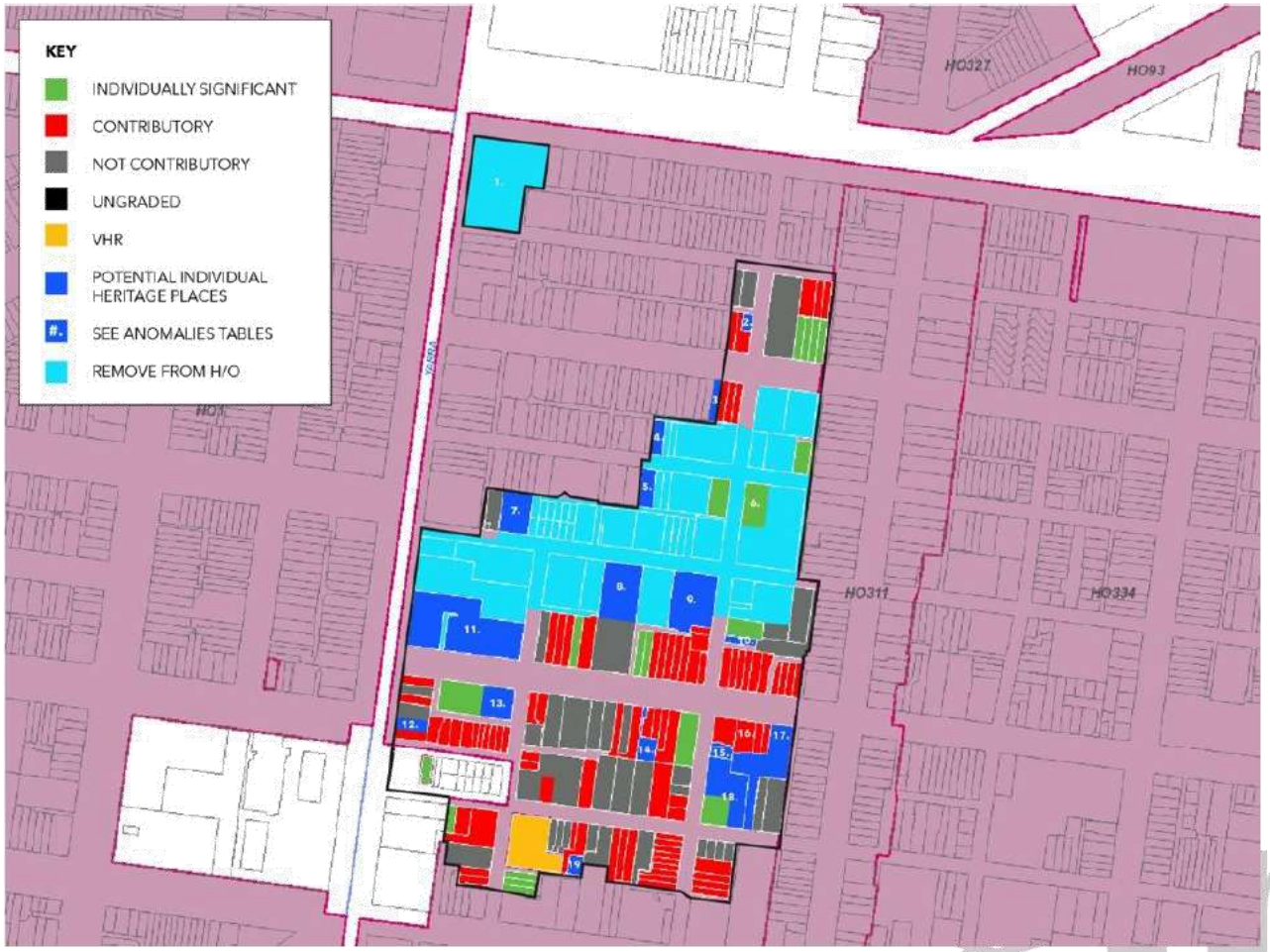
- New development on land immediately abutting heritage buildings should:
  - Provide a sensitive site-responsive transition between the existing heritage fabric and the new proposed built form.
  - Retain the visual prominence of prominent corner buildings and local landmarks.
  - Be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.
  - Ensure façade treatments and the articulation of new development are simple and do not compete with the heritage fabric.
  - Avoid the replication of existing decorative features and architectural detail.

APPENDIX I – Fitzroy Mixed Use Precinct Anomalies

A1.1 Qualifications

- Only obvious omissions and anomalies have been identified and inconsistencies in street addresses have not been identified
- Review of gradings across the precinct has not been undertaken
- Photos taken by GJM October 2018 and May 2020 unless otherwise noted.

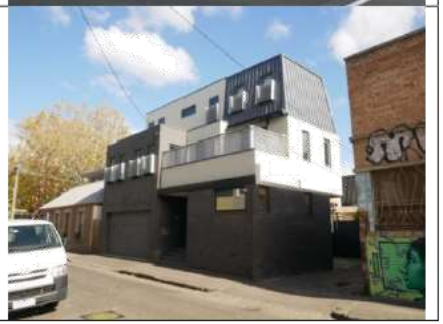
A1.2 Anomalies Map



Attachment 6 - Attachment 6 - Fitzroy West Heritage Review V3

A1.3 Anomalies

Map references generally identified from west to east and north to south.

MAP REF	ADDRESS (HO NUMBER)	CURRENT GRADING APPENDIX 8	CURRENT GRADING PRECINCT MAP	PROPOSED GRADING	COMMENTS / RECOMMENDATION (BOLD)	IMAGES
1.	366-374 Nicholson Street and 6 Alexander Parade, Fitzroy (HO334)	Not-contributory	Not-contributory	Remove from HO334	There is no heritage fabric on these prominent sites at the intersection of Alexandra Parade and Nicholson Street and the redevelopment on this land should not trigger the heritage provisions of the Yarra Planning Scheme. **Remove land from the extent of HO334.**	
2.	467 Fitzroy Street, Fitzroy (HO334)	Ungraded	Ungraded	Not-contributory	This recently developed site does not appear within Appendix 8. **Update Appendix 8 and the grading map to show this property as 'Not-contirbutory'**	

Attachment 6 - Attachment 6 - Fitzroy West Heritage Review V3

3.	60 Westgarth Street, Fitzroy (HO334)	Contributory	Contributory	Contributory	60-66 Westgarth Street is a row of four two-storey shop/residences built as a terrace. Three of four buildings are zoned MUZ (numbers 62, 64 and 66). Number 60 is zoned NRZ. **Rezone 60 Westgarth Street from NRZ to MUZ**	
4.	45 Leicester Street, Fitzroy (HO334)	Contributory	Contributory	Contributory	45 Leicester Street (right of image) is a single storey terraced house. It is currently zoned MUZ whereas its pair at 43 Leicester Street (left of image) is zoned NRZ. This appears to be the result of an error in the mapping of the zone boundaries. **Rezone 45 Leicester Street from MUZ to NRZ.**	
5.	44 & 46 Leicester Street, Fitzroy (HO334)	Contributory	Contributory	Contributory	44 & 46 Leicester Street is a pair of highly intact single storey terraced houses. They currently zoned MUZ and form the boundary to NRZ zoned land to the west. This appears to be the result of an error in the mapping of the zone boundaries. **Rezone 44 & 46 Leicester Street from MUZ to NRZ.**	

Attachment 6 - Attachment 6 - Fitzroy West Heritage Review V3

6.	68-70 Leicester Street, Fitzroy (forms part of 75-87 Rose Street) (HO334)	Individually significant	Not-contributory	Individually significant	This two-storey brick factory building dates from 1873 and is located at the northwest corner of the Fitzroy Market site (75-87 Rose Street). It is included in Appendix 8 as 'Individually significant' (addressed as 70 Leicester Street) but is shown as 'Not-contributory' on the grading map. **Amend the grading map to show 68-70 Leicester Street as 'Individually significant'**	
7.	21-23 Rose Street, Fitzroy (HO334)	Contributory	Contributory	Not-contributory	21-23 Rose Street is identified in Appendix 8 as a factory/warehouse dating from 1915-25 and is graded 'Contributory'. This property has been redeveloped and no intact heritage fabric remains. **Amend Appendix 8 and grading map.**	
8.	46-48 and 50-52 Rose Street, Fitzroy (HO334)	46-48 Rose Street – Not-contributory (1960-70 Factory/warehouse use) 50-52 Rose Street – Contributory (1915-25, Engineering Company Warehouse)	48 Rose Street – Not-contributory 54 Rose Street - Contributory	48 Rose Street – Contributory (retained façade) 54 Rose Street – Not-contributory	48 Rose Street and 41 Kerr Street has been redeveloped as an apartment development which retains the remnant façade of the Engineering Company Warehouse with no heritage fabric behind. Appendix 8 incorrectly addresses that building at 50-52 Rose Street. 54 Rose Street is occupied by the various structures that make up the Rose Street Market.	

Attachment 6 - Attachment 6 - Fitzroy West Heritage Review V3

					Amend Appendix 8 and grading map.	
9.	415, 417 and 419 Fitzroy Street, Fitzroy (HO334)	Ungraded	Ungraded	Not-contributory	415, 417 and 419 Fitzroy Street are tilt-slab factory buildings dating from the late-twenieth century and do not contribute to the South Fitzroy Precinct. **Amend Appendix 8 and grading map to show these sites as 'Not-contributory'.**	 Source: Google Streetview, July 2019
10.	404-408 Fitzroy Street, Fiztroy (HO334)	406-408 Former Wesleyan Church – Individually significant Land immediately south 1/TP566748 - ungraded	406-408 Former Wesleyan Church – Individually significant Land immediately south 1/TP566748 - ungraded	406-408 Former Wesleyan Church – Individually significant Land immediately south 1/TP566748 – Not-contributory	The land immediately south of the former Wesleyan Church at 406-408 Fitzroy Street (top image) is occupied by substantially altered single storey factory/warehouse buildings and an access way to the rear of 71-77 Kerr Street. This parcel of land is currently not included in Appendix 8. **Amend Appendix 8 and the grading map to grade this property at 1/TP566748 'Not-contributory'**	

Attachment 6 - Attachment 6 - Fitzroy West Heritage Review V3

11.	7-19 Kerr Street and 282-298 Nicholson Street, Fitzroy (HO334)	15-19 Kerr Street – Contributory 17 Kerr Street – Contributory 282-298 Nicholson Street – Not contributory	15-19 Kerr Street – Contributory 17 Kerr Street – Contributory 282-298 Nicholson Street – Contributory	15-19 Kerr Street – Contributory 17 Kerr Street – Contributory 282-298 Nicholson Street – Not contributory	15-19 Kerr Street (top image) are two storey factory/warehouse buildings dating from 1900-15 and are graded 'Contributory' in Appendix 8. A separate entry for 17 Kerr Street, while apparently redundant, is also provided in Appendix 8. 7 Kerr Street (middle image) is occupied by a single storey brick factory warehouse dating from the Inter-war period – there is no refence to this building in Appendix 8. While forming part of the same parcel of land as 7-19 Kerr Street, 282-298 Nicholson Street is occupied by showrooms dating from c.1940-50. All the land is identified as 'Contributory' in the grading maps. **Assess 7 Kerr Street to determine whether or not a 'Contributory' grading is warranted.** **Amend the grading map to show 282-298 Nicholson Street as 'Not-contributory', and 15-19 Kerr Street as 'contributory.'**	

Attachment 6 - Attachment 6 - Fitzroy West Heritage Review V3

12.	270 Nicholson Street, Fitzroy (HO334)	270-268 Nicholson Street – Not-contributory	Contributory	Not-Contributory	This single storey showroom building does not contribute to the Fitzroy South Precinct but is identified as 'Contributory' in the grading map and is graded 'Not-contributory' in Appendix 8. **Amend the grading map to show 270 Nicholson Street as 'Not-contributory'.** Appendix 8 provides two entries for 268 Nicholson Street, one addressed 268 Nicholson Street and one 270-268 Nicholson Street. **Amend Appendix 8 to replace the address '270-268 Nicholson Street' with '270 Nicholson Street'.**	
13.	2-20 Kerr Street, Fitzroy (HO334)	Gumleaf Papers Pty. Ltd. Factory 2 Kerr Street – Individually significant 16-20 Kerr Street – Not contributory	2-20 Kerr Street – Individually significant	2 Kerr Street – Individually significant 16-20 Kerr Street – Not contributory	2-20 Kerr Street is occupied by single storey brick factory/warehouse buildings dating from 1939 (2 Kerr Street) and c.1930-50 (16-20 Kerr Street). Appendix 8 grades the former 'Individually significant' and the latter 'Not-contributory'. **Update grading map to reflect the grading within Appendix 8.**	

Attachment 6 - Attachment 6 - Fitzroy West Heritage Review V3

14.	52 Kerr Street, Fitzroy (HO334)	Ungraded	Ungraded	Contributory	52 Kerr Street is located at the rear of numbers 54 and 46 (note there is no number 50 Kerr Street) and was asserted at the time of its recent sale (October 2019) as dating from the 1880s. This property does not appear within Appendix 8 nor the grading maps. **Assess 52 Kerr Street to determine if it warrants inclusion within Appendix 8 as 'Contributory'.**	 Source: realestate.com.au/sold/property-house-vic-fitzroy-132109186
15.	70-74 Kerr Street and 380 Fitzroy Street, Fitzroy (HO334)	70-74 Kerr Street - Not-contributory 380 Fitzroy Street – Ungraded	70-74 Kerr Street - Not-contributory 380 Fitzroy Street – Ungraded	70-74 Kerr Street - Not-contributory 380 Fitzroy Street – Not-contributory	380 Fitzroy Street is located at the rear of 70-74 Kerr Street and is occupied by at grade car park. This land does not appear on Appendix 8 or the grading maps. **Amend Appendix 8 and the grading map to show 380 Fitzroy Street as 'Not-contributory'**	
16.	76, 78 & 80 Kerr Street, Fitzroy (HO334)	Contributory	Ungraded	Contributory	76, 78 and 80 Kerr Street are a row of three terraced houses dating from c.1870-90. They are graded 'Contributory' in Appendix 8 but do not appear on the grading map. **Update grading maps to show 76-80 Kerr Street as 'Contributory'.**	

17.	88-90 Kerr Street, Fitzroy (HO334)	Not-contributory	Individually significant	Not-contributory	88-90 Kerr Street is a c.1970-80s office building that is graded 'Not-contributory' in Appendix 8. It is shown as 'Individually significant' in the grading map. **Update grading maps to show 88-90 Kerr Street as 'Not-contributory'.**	 Scource: Google Streetview, July 2019.
18.	71-75 Argyle Street, Fitzroy (HO334)	Factory, Arthur Engineering Co., 71 Argyle Street - Individually significant 73-75 Argyle Street – Not-contributory	Part Individually Significant; Part ungraded	71 Argyle Street - Individually significant 73-75 Argyle Street – Not-contributory	71-75 Argyle Street is an irregularly shaped, consolidated site currently undergoing redevelopment. The Argyle and Fitzroy Street façades of the two-storey factory building at 71 Argyle Street dating from c.1870-90 have been retained. **Update grading map to reflect the grading within Appendix 8.**	
19.	1 Harrison Place (HO334)	Ungraded	Ungraded	Contributory	The freestanding building at 1 Harrison Place is a two-storey brick factory/warehouse building from c.1900 which has been converted to an office/residence. It is moderately intact but remains legible to its original period, form and design. **Assess 1 Harrison Place to determine if it warrants inclusion within Appendix 8 as a 'Contributory' building.**	

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

Traffix Group

Traffic Engineering Assessment

Brunswick Street and Smith Street Activity Centres – Extended Area

Prepared for
Yarra City Council

November, 2020

G22790R-02B

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Appendix A **Existing Traffic Management Conditions**

Appendix B **Existing Laneway Conditions**

Appendix C **Existing Access Arrangements**

1. Introduction

Yarra City Council has initiated Built Form Frameworks for activity centres in Fitzroy and parts of Collingwood (referred to as the 'Brunswick Street and Smith Street Activity Centres' through this report in keeping with the previous naming convention). These Built Form Frameworks will define the preferred future built form character of the precincts and include principles, guidelines and requirements to guide future development and to manage the level of change. Importantly, these frameworks will inform the preparation of future Design and Development Overlay (DDO) controls and policy for these areas.

Traffix Group has previously prepared a traffic study for Brunswick Street and Smith Street Activity Centres (report reference: G22790-01B, dated November, 2019). This report includes a detailed review of the whole study area, existing transport conditions and reviews the area in detail from a transport planning perspective.

Since that time, the area being studied by Council for the Brunswick Street and Smith Street Activity Centres have been extended further than that covered by the original traffic study. This report focuses only on the extended area, rather than the entire precinct.

Our review of the remaining areas of the Activity Centres can be found within our previous report (G22790-01B, dated November, 2019) and this report should be read as an extension and in conjunction with the main report.

2. Scope & Methodology

The adopted methodology for undertaking this study was as follows:

- Undertake thorough site inspections of the extended study areas to document and map (with a main focus on properties abutting arterial and higher order roads):
  - existing access arrangements for each individual property,
  - existing traffic management treatments for all arterial and local roads and rear laneways within the study areas,
  - existing configuration of each road and laneway within the study areas (including carriageway width and road reservation width), and
  - foreseeable access constraints to each individual property should development occur.
- Review and categorisation of laneways into 3 categories (unconstrained, partially constrained or highly constrained) in order to better understand their potential to currently accommodate additional traffic under their existing conditions and configuration. Key factors include laneway width, laneway length, laneway connections (i.e. continuous or dead-end) and physical layout (i.e. bends within the laneway network). These factors are discussed in more detail further in the report.
- Review of the capacity for laneways and local roads to accommodate the forecast level of traffic based on development potential and their existing configuration.
- Review of what configuration or adjustments may be necessary to laneways or local road configurations in order to accommodate this increase in vehicle movements and to

minimise potential for vehicle conflicts within the study areas. In particular, impacts on Arterial Roads to be minimised as much as practically possible.

- Make recommendations as to the location and form of new, altered and retained access arrangements and laneways required to provide appropriate access to future developments.
- Review draft wording for the traffic engineering aspects of the future Design and Development Overlays, which sets out design objectives and outcomes, permit application requirements, and decision guidelines for assessing future planning permit applications, based on the desired access outcomes for future development.

3. Existing Conditions

3.1. Study Areas

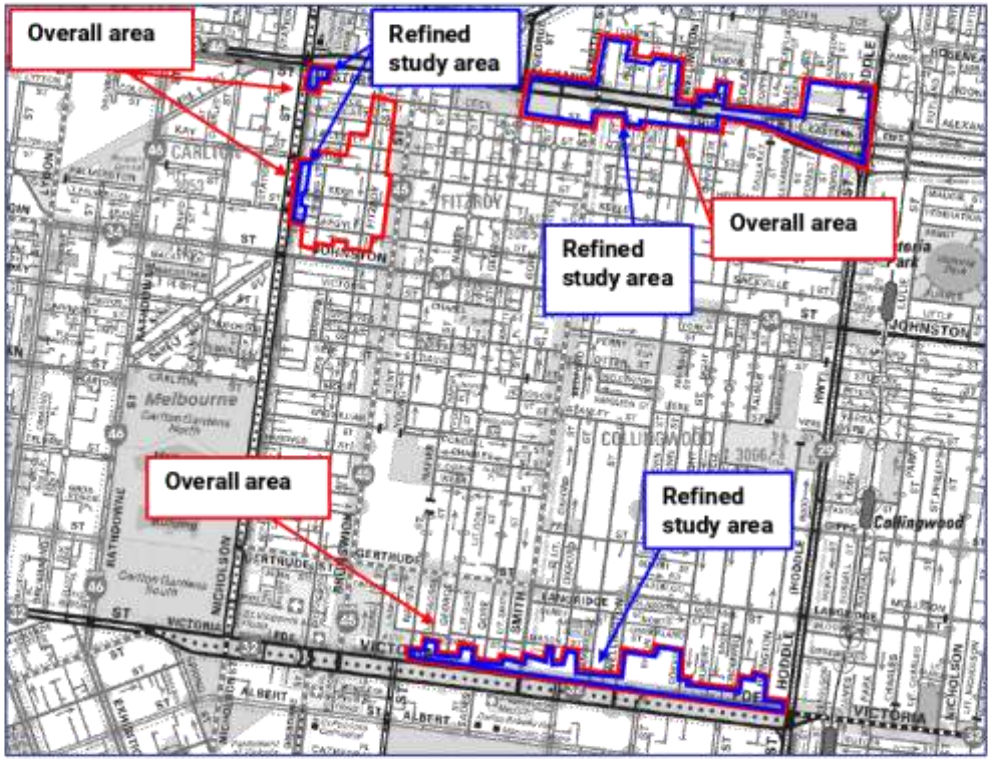
The new study area is divided into three areas as follows:

- Alexandra Parade Precinct
- Fitzroy West Precinct
- Victoria Parade Precinct

This is shown in the locality plan provided on the following page at Figure 1. Land within the study areas is generally zoned 'Commercial 1 Zone', 'Commercial 2 Zone' and 'Mixed Use Zone', as shown in Figure 2.

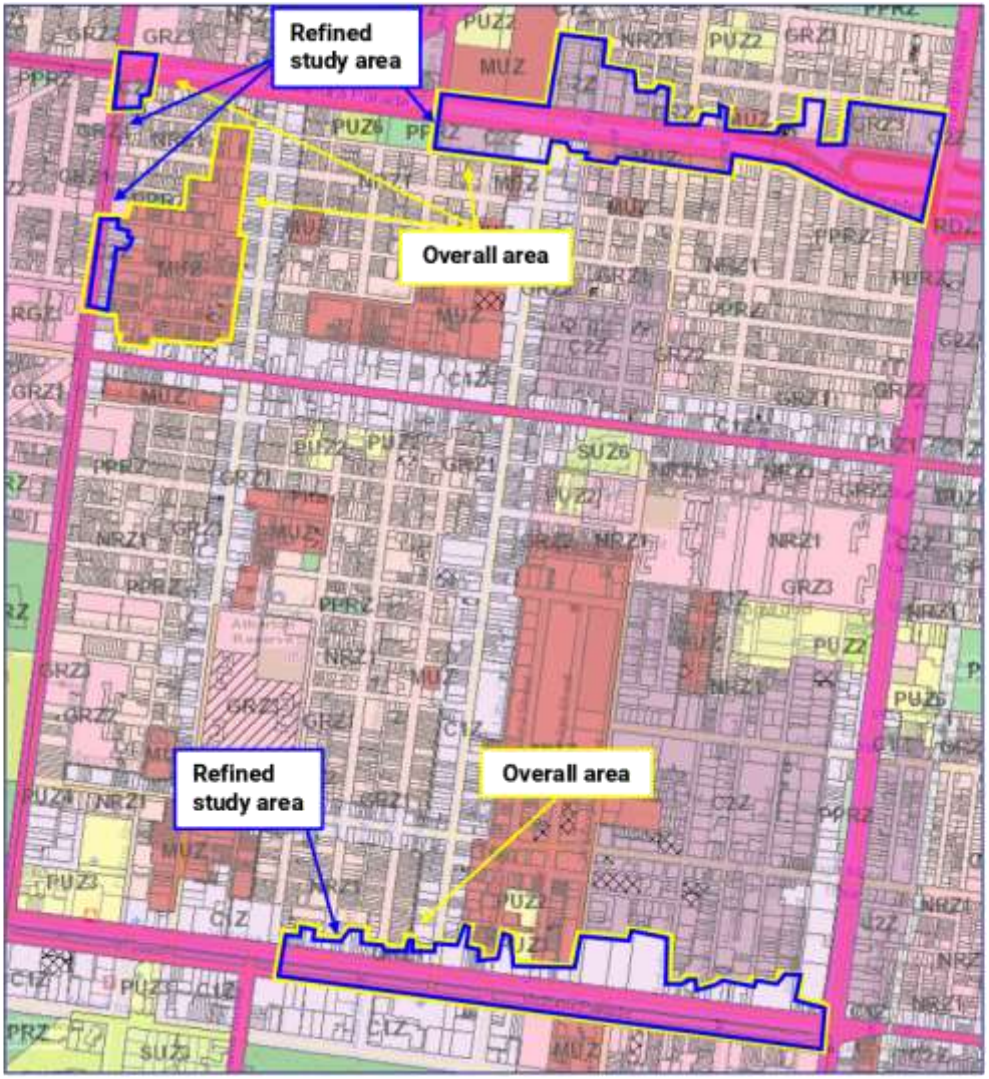
Both figures show the overall study area, in addition to the area of focus of this report (the refined study area), which includes all properties adjacent to arterial roads and higher order roads.

The Fitzroy West Precinct predominately comprises properties that do not abut arterial roads or laneways. It is made up of 'hinterland' areas where vehicle access location is not critical to the functioning of local road network. As per the previously completed study methodology, these areas have not been reviewed in detail from a traffic planning viewpoint. This is mainly due to the fact that none of these roads have direct frontage/potential access opportunities to arterial roads, and that access to either the local roads or laneways would both be appropriate for these sites.



Source: Melway

Figure 1: Locality map



Source: Planning Schemes Online

Figure 2: Land use zoning map

Detailed information regarding the existing conditions of the study area, including surrounding land uses, the road network, alternative modes of transport and local demographics are outlined in our previous report (report reference: G22790-01B, dated November, 2019).

4. Control of Vehicle Access Locations

Our previous report set out in detail vehicle access management principles and methods of access control.

Essentially, conventional planning practice dictates that the provision of vehicle access to private land should prioritise access to lower order roads where possible. There are numerous benefits of limiting vehicle access to arterial roads including creating a pedestrian friendly environment through increasing active frontage, removes conflict points, reduces the number of intersections, and increasing safety and efficiency of the overall road network.

This is further supported through local Council policy, which recognises the role of roads for movement via multiple transport modes. Council's transport modal hierarchy for decision making places pedestrians, cyclists and trams in the top three, and places vehicular traffic at the bottom.

This hierarchy recognises the importance of sustainable modes into the future and supports the recommended access management strategy to utilise rear laneways and side streets wherever possible. Direct access to arterial roads being a last resort (with consideration for "no parking provision" potentially being preferable for some sites).

However, it is also acknowledged that there are instances where direct vehicle access to arterial roads may need to be provided.

4.1. Control of Vehicle Access

The vehicle access hierarchy has been defined in accordance with the following hierarchy (from highest to lowest preference):

1. Laneways
2. Local Streets
3. Arterial Roads – no access unless there is no alternative

Arterial roads include:

- Brunswick Street
- Smith Street
- Wellington Street
- Gertrude Street/Langridge Street
- Johnston Street
- Nicholson Street
- Alexandra Parade
- Victoria Parade

It is recommended that this hierarchy is also included in the future planning controls for the study area.

In some instances, the strict use of laneways for sole vehicle access may overload the capacity of the laneways in their current form. The following section reviews the capacity of the existing laneways within the study area to accommodate additional development.

5. Right-of-Way Management

The following sections provide:

- An outline of the methodology behind our categorisation of laneways within the study area
- A description of laneway characteristics and how these affect the capacity of laneways to accommodate vehicles, pedestrians and cyclists.
- A detailed description for each of the options considered to improve the laneway network.

5.1. Categorisation of Laneways

As part of the review process of the current capacity of existing laneways to accommodate additional future development traffic volumes, we have reviewed and categorised laneways within the study areas into three categories (unconstrained, partially constrained or highly constrained) in order to better understand their potential to currently accommodate additional traffic under their existing conditions and configuration.

Key factors include laneway width, laneway length, laneway connections (i.e. continuous or dead-end) and physical layout (i.e. bends within the laneway network). These factors are discussed in more detail below.

The laneway assessment classified all laneways within the study area by their potential to accommodate additional traffic. Laneways have initially been classified at three levels:

Unconstrained – these laneways have very few, if any, development constraints. As a result, they are well suited to accommodating additional traffic. Changing the laneway to operate one-way (where possible) has not been considered as a constraint.

Partially Constrained – these laneways have some potential constraints that limit their capacity to accommodate traffic, however they are generally easily addressed. Common issues include insufficient width, long length and lack of splays at critical locations.

Highly Constrained – this laneway has fundamental issues that cannot easily resolved. This usually relates to very narrow laneways or heritage constraints that limit the opportunities to alter the laneways.

When assessing the capacity of laneways, a number of factors need to be considered. For most laneways, it is a combination of factors that contribute to its classification.

The key factors that influence the classification of a laneway are outlined below:

Laneway width. This is the single most important factor to the operation and capacity of a laneway. To provide a single traffic lane, a laneway should be at least 3.0m wide. A width slightly less than 3.0m (down to 2.8m) is also functional, although constrained. Laneways less than 2.8m wide are problematic for vehicle access and should be considered as pedestrian only laneways and/or have very limited development potential (it is acknowledged

that some narrow laneways within the study area are in practice used for vehicle access currently).

Laneways become capable of supporting simultaneous two-way traffic at a width of 5.5m if not built up (i.e. 5.5m between walls) or 6.0m wide between building walls. This width removes most capacity constraints of laneways and effectively makes them unconstrained.

One-way or two-way operation. For single width laneways, a one-way laneway has a significantly higher capacity than a laneway permitting two-way traffic. One-way operation eliminates vehicle conflict within the laneway and can support a high level of access/development from the laneway. One-way laneways are generally classified as unconstrained in this assessment.

Continuous. A continuous laneway can generally be made to operate in a one-way direction. Generally, a continuous, straight laneway was classified as unconstrained because it can be made one-way to address capacity constraints.

A dead end laneway has less capacity to handle additional traffic and the laneway cannot be made one-way to manage traffic flow. However, this factor is only relevant for single width laneways, a laneway wide enough for two-way traffic is not constrained just because it has a dead end.

Laneway Length. This factor ties into laneway width and whether it is a continuous laneway or not. A long, single width (3m up to 6.0m wide) laneway will experience a high level of vehicle conflict due to higher traffic volumes, higher development potential (more properties accessing it) and more chances of vehicles meeting the laneway.

There are no set rules regarding the 'tipping point' for when two-way traffic in a single width laneway reaches capacity. It is a combination of factors including traffic volume, configuration and length that contribute to a laneway's capacity. Laneway length is therefore a contributing factor that impacts on laneways in combination with other factors.

Physical layout. A straight laneway has the highest vehicle carrying capacity. Bends in laneways may create operational issues, particularly if:

- There are no splays around the inside corner of the bend to facilitate vehicle access. For instance, a 90° bend between two 3m wide laneways is inaccessible to vehicles without a splay.
- Due to a lack of sight distance, vehicles cannot see each other approaching the blind corner. For single lane laneways, this can be a serious issue if drivers meet near the bend, the laneways are long and there are no passing opportunities.

Number of Abutting Properties and Frontage. The number of properties and their frontages are relevant to the potential future traffic conditions of a laneway. There are a number of ways this factor can influence laneways:

- Short laneways may only serve a limited number properties and accordingly with a low development potential, a short laneway may effectively be 'unconstrained'.
- A large number of narrow lots might make widening a laneway problematic.
- If the number of abutting properties to the laneway is small, a short, narrow laneway is unlikely to be constrained.

Heritage constraints. We are not heritage experts and we have relied on information provided by Council in this regard. Properties that have heritage value may create issues in that they may not easily be modified and this was taken into account during our initial review. Heritage properties abutting a laneway may limit options to widen the laneway.

The follow factors were not considered when assessing the development potential of laneways:

- The condition of the laneway (does it need maintenance? Is it in disrepair?).
- The material the laneway is constructed with or type of surface treatment (gravel, asphalt, bluestone, etc.).

As existing Council assets, the condition of the laneway is not especially relevant. It is Council's on-going responsibly to maintain laneways as appropriate.

Some larger developments will warrant upgrading the surface of laneways (for instance, from gravel to asphalt). However, the condition of the laneway is less relevant than its physical configuration. Council also has a number of methods of upgrading the surfaces of laneways, including as permit conditions for significant developments or special charge schemes of abutting properties. These issues are easier to resolve than physical issues with a laneway's configuration.

Summary

From the above, it is apparent that the capacities of laneways are impacted by a large number of factors. In addition, it is challenging to concisely quantify how all the various factors influence each other. There are very few 'hard and fast' rules that define when a laneway is constrained or not and accordingly, this assessment is somewhat subjective and our assessment is based on our engineering judgement and experience.

5.2. Upgrading the Capacity of Laneway

Under Clause 56.06 of the Planning Scheme, Table C1 provides an outline of the design of roads, one of which includes an 'Access Lane', which is defined as *a side or rear lane principally providing access to parking on lots with another street frontage.* Table C1 continues on to state that an Access Lane has a traffic volume of up to 300 vehicles per day (vpd) and this is typically adopted as the environmental capacity laneway. This also represents an indicative peak volume of 30 vehicles per peak hour (two-way). This generally applies to single-width laneways (typically in the order of 3m width).

The options in terms of increasing the traffic capacity of existing laneways include conversion to a one-way operation, increasing laneway width, provision of splays around laneway corners and the provision of a passing area at the entrance to a laneway.

Upgrades for non-vehicle travel could also be undertaken on laneway, including converting appropriate laneways to shared areas.

5.3. Recommendations

Our recommendations regarding various laneway upgrades are summarised at Table 1.

The table provides the detailed reason behind the recommendations for the various laneways within the study area and references the laneways by the numbers defined in Appendix C.

Laneways not included in the following table are unlikely to require updates or modifications, either due to already being functional for higher traffic volumes or being within areas where the development potential (intensity of development) of abutting properties is low.

It is of note that laneways reviewed as a part of our previous report have been re-included if they are within the new study area boundaries and we have maintained their previous naming/numbering convention. All new laneways have been numbered starting at the end of the previous ROW list (i.e. starts at ROW 123).

Table 1: Recommendations for ROW upgrades

ROW	Classification	Modifications	Reason
59: ROW (from Emma St to Emma Street)	Partially constrained	Provide splay on southern corner No. #35 Emma St.	A splay is needed to make the ROW traversable at its southern end.
122: ROW (from Derby Street to Victoria Parade)	Partially constrained	One-way traffic flow	This laneway is long and abuts numerous properties.
128: ROW (from Council Street to Alexandra Parade)	Partially constrained	Modifications rely on outcome of current permit application	There is a current permit for the laneway is to be partially converted to private land in lieu of consolidated development on the block. This will result in a change to the way that the ROW operates. This is discussed in more detail in the following section.
129: ROW (from Council Street to Alexandra Parade)	Partially constrained	One-way traffic flow	This laneway is long and abuts numerous properties.
131: ROW (from Noone Street to Alexandra Parade)	Partially constrained	One-way traffic flow	This laneway is long and abuts numerous properties.
132: ROW (from Noone Street to Alexandra Parade)	Partially constrained	One-way traffic flow	This laneway is long and abuts numerous properties.
134: ROW (from Noone Street to Alexandra Parade)	Partially constrained	One-way traffic flow	This laneway is long and abuts numerous properties.

Following this review, it is evident the recommendations for various laneways generally fall into two groups. These are described below:

One-Way Laneways

There are many laneways within the study area that run parallel with the arterial road and are relatively short in length (under 100m) and provide straight, through links between two local roads. These generally serve properties that have preferred building heights of 5-6 storeys.

Instead of physical changes (such as widening), the recommended solution to increased traffic volumes is that these laneways are made one-way to eliminate capacity constraints. The direction of the one-way arrangement would be subject to consultation.

Council has the option to either:

- Pro-actively make these changes now, to provide certainty to all landowners and developers about the future operation of these laneways, or
- Change these laneways on a case-by-case basis as development proposal eventuate. We do not prefer this option, because it provides no certainty to developers or the community in regards to the laneway. The outcome of this uncertainty is each individual developments will apply a heterogeneous mix of solutions to improve the laneway for their individual needs and the simple solution of a one-way arrangement (avoiding land loss) is rarely implemented. As changes to one-way operation requires community consultation, there is no certainty of Council support to change a laneway to one-way if proposed by a development.

Geometrically constrained laneways

These laneways typically have physical issues such as:

- No splays on corners and limited ability to provide them with properties outside of the study area, new buildings that did not provide the splays or heritage issues.
- Limited ability to widened the ROW due to heritage issues, subdivision pattern or properties abutting the laneway falling outside the study area.
- Dead ends

These laneways have a finite capacity that is unlikely to be improved or the solutions are unfeasible in our view. In this case, it is recommended that Council encourage limited car parking on sites relying on these laneways.

5.3.1. ROW 128 Network

There is a current permit application for the development site of 592-622 Smith Street, 2-12 Alexandra Parade and 1-7 Reeves Street, Clifton Hill under Permit No. PLN19/0845.

An aerial photograph of this network is shown in Figure 3.

The proposal includes the closure of the east-west laneway that runs from Reeves Street to the north-west section of the ROW. This will become a private pedestrian link. This will have impacts on the operation of the ROW, turning it into more of an L-shaped ROW between Council Street and Reeves Street, with a short dead end section. In this case, it would be recommended to provide a splay on the north-eastern corner of the L-shaped bend (#1

Council Street) if the site is redeveloped to help facilitate the turning movement from Council Street to Reeves Street.

If the application does not eventuate, then a one-way arrangement could be facilitated along the north-south portion of the ROW in order to minimise vehicle conflict.

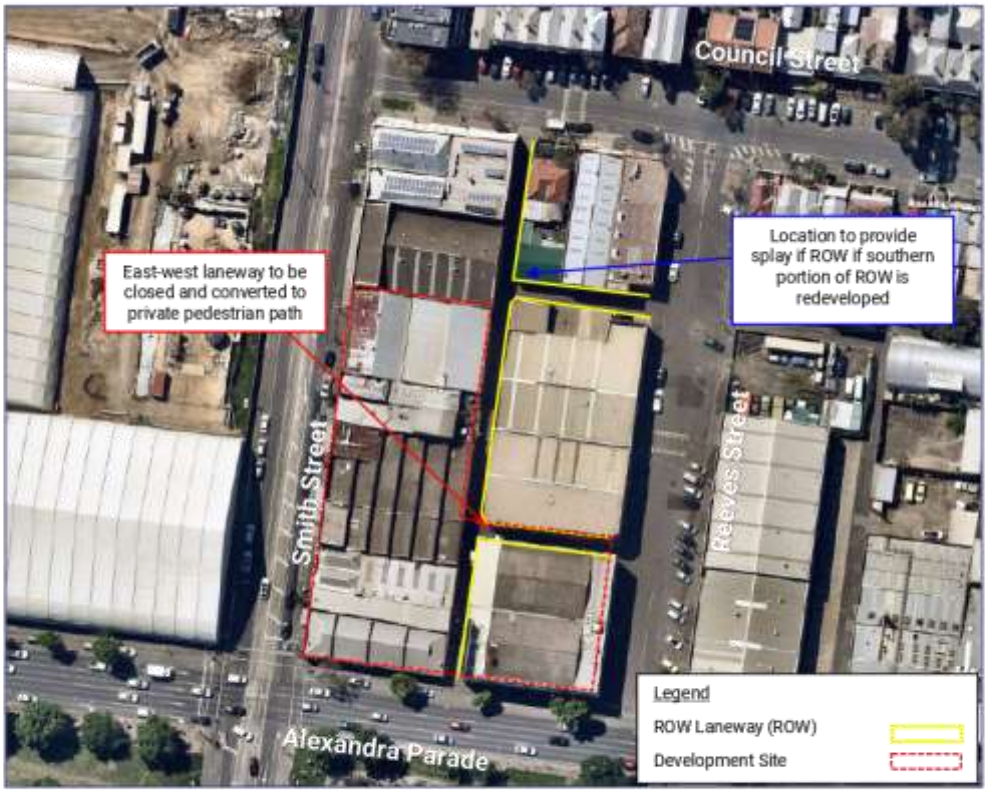


Figure 3: ROW 128

6. Design and Development Overlay – Draft Schedules

We have reviewed the Design and Development Overlay (DDO) draft schedule for all three of the study areas.

The following section reviews the items related to traffic engineering matters and provides our commentary. It is of note that most of the traffic engineering matters are universal across all of the study areas, and as such, these items have only been reviewed once.

The relevant sections of the DDO is copied out below:

Design and Development Overlay Schedule XX – All Areas

2.11 Access, Parking and Loading Areas Requirements

Pedestrian access to buildings should be achieved via streets and avoid primary access from laneways. Where pedestrian access from a laneway is appropriate, it should include a pedestrian refuge or landing.

Ensure pedestrian entrances are clearly visible, secure and have an identifiable sense of address.

Residential and commercial pedestrian entrances should be distinguishable from each other.

The common pedestrian areas of new buildings should be designed with legible and convenient access, with hallway and lobby areas of a size that reflects the quantity of apartments serviced and which can be naturally lit and ventilated.

Resident and staff bicycle parking should be located and designed to be secure and conveniently accessible from the street and associated uses.

Vehicle access should be achieved from laneways or side streets (in that order of preference).

Car parking should be located within a basement or concealed from the public realm.

Vehicle ingress and egress into development, including loading facilities and building servicing, should be designed to ensure a high standard of pedestrian amenity and limit potential conflict between vehicle movements and pedestrian activity.

Development with redundant vehicle access points should reinstate the kerb, line-marked parking bays, and relocate any parking signs.

Development with laneway access may require a ground level set back in order to achieve practicable vehicle access. Between ground level and first floor, a headroom clearance of 3.5m minimum should be achieved.

Properties on the inside corner of bends in laneways or at intersections between two laneways should provide a minimum 3m x 3m splay to facilitate vehicle access.

5.0 Application Requirements

The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- *a Traffic Engineering Report prepared by a suitably qualified traffic engineer that demonstrates how the development:*
  - *minimises impacts on the level of service, safety and amenity of the arterial road network (including tram services);*
  - *reduces car dependence and promotes sustainable transport modes; and*
  - *which includes an assessment of the cumulative impacts of traffic and parking in the Precinct including an assessment of the ongoing functionality of laneway/s, where applicable.*

6.0 Decision Guidelines

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- *whether the requirements in Clauses 2.2 to 2.11 are met;*
- *whether the design of the streetscape interface makes a positive contribution to an active, pedestrian-oriented street environment and/or public realm;*
- *the cumulative impact of development on traffic and parking in the nearby area, including on the functionality of laneways; and*
- *whether the layout and appearance of areas set aside for vehicular access, loading and unloading and the location of any proposed car parking is practicable, safe and supports a pedestrian-oriented design outcome.*

Design and Development Overlay Schedule XX – Alexandra Parade

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on Alexandra Parade, side streets and public spaces.

2.11 Access, Parking and Loading Areas Requirements

Development must not provide additional vehicular access from Alexandra Parade.

Ensure access to service laneways is maintained in order to facilitate commercial use of the properties fronting Alexandra Parade.

Design and Development Overlay Schedule XX – Fitzroy West

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on the southern side along the key pedestrian and green streets of Westgarth, Leicester, Rose, Kerr and Argyle Streets.

Design and Development Overlay Schedule XX – Victoria Parade

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths, public spaces and the boulevard's central median.

2.11 Access, Parking and Loading Areas Requirements

Development must not provide additional vehicular access from Victoria Parade.

Ensure access to service laneways is maintained in order to facilitate commercial use of the properties fronting Victoria Parade.

6.1. Response to DDO Draft Schedule

The majority of the traffic related items in the DDO Draft Schedule were adopted from our previous recommendations within our traffic report (G22790-01B), and as such, we are satisfied that they are appropriate.

The only exception to this is within *2.11 Access, Parking and Loading Area Requirements* for both Victoria Parade and Alexandra Parade, whereby developments are restricted from providing any additional vehicular access to these arterial roads (by the word must).

We agree that there should be preference to access from lower order roads, however there are certain exceptions to this rule, and as such we do not consider that a blanket ban on access to these roads is appropriate. Key examples include properties with no other road frontages and those with high development intensity rear access outcomes may not be feasible (due to the capacity of the rear laneway) or desirable (it may introduce large volumes of non-local traffic into local streets).

The 'Porche' and 'Melbourne Pathology' sites in Victoria Parade are key examples where this may be the case.

Our view is this requirement should be modified from 'must' to 'should' or must with some caveats.

We would recommend that the wording within *2.11 Access, Parking and Loading Area Requirements* for both areas replace the word *'must not'* from *'Development must not provide additional vehicular access from Alexandra Parade/Victoria Parade'* to *'should not provide vehicle access to Alexandra Parade/Victoria Street, where possible'.*

7. Conclusions

The access arrangements for all properties within the extended Brunswick Street and Smith Street Activities centre have been reviewed.

A number of key recommendations regarding how vehicle access should be planned, and recommended changes to ROWs within the extended area has been proposed in order to facilitate safe and efficient vehicle access to abutting land within the review area.

This report also reviews proposed Design and Development Overlay Draft Schedule to apply within the activity centre at Section 6.1. We are satisfied with the wording of the controls but do recommend that some limited flexibility is provided regarding access control to Victoria Parade and Alexandra Parade.

Specifically, we would recommend that the wording within *2.11 Access, Parking and Loading Area Requirements* for both areas replace the word *'must not'* from *'Development must not provide additional vehicular access from Alexandra Parade/Victoria Parade'* to 'should not provide vehicle access to Alexandra Parade/Victoria Street, where possible'.

Appendix A

Existing Traffic Management Conditions

Traffix Group G22790R-02B

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

Appendix B

Brunswick Street & Smith Street Traffic Study – Extended Area: Existing Traffic Management Conditions

MAP NO.1

Legend

- Study Area Boundary
- Traffic Signals
- Left Turn Ban
- Threshold Treatment
- Right Turn Ban
- Left-turn Only
- One-way
- No Through Road Blockade

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

MAP NO.2

Legend

- Study Area Boundary
- Traffic Signals
- Left Turn Ban
- Threshold Treatment
- Right Turn Ban
- Left-turn Only
- One-way
- No Through Road Blockade

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

MAP NO.3

Legend

- Study Area Boundary
- Traffic Signals
- Left Turn Ban
- Threshold Treatment
- Right Turn Ban
- Left-turn Only
- One-way
- No Through Road Blockade

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

MAP NO.4

Legend

- Study Area Boundary
- Traffic Signals
- Left Turn Ban
- Threshold Treatment
- Right Turn Ban
- Left-turn Only
- One-way
- No Through Road Blockade

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

MAP NO.5

Legend

- Study Area Boundary
- Traffic Signals
- Left Turn Ban
- Threshold Treatment
- Right Turn Ban
- Left-turn Only
- One-way
- No Through Road Blockade

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

Appendix B

Brunswick Street & Smith Street Traffic Study – Extended Area: Existing Traffic Management Conditions

MAP NO.6

Legend

- Study Area Boundary
- Traffic Signals
- Left Turn Ban
- Threshold Treatment
- Right Turn Ban
- Left-turn Only
- One-way
- No Through Road Blockade

Appendix B

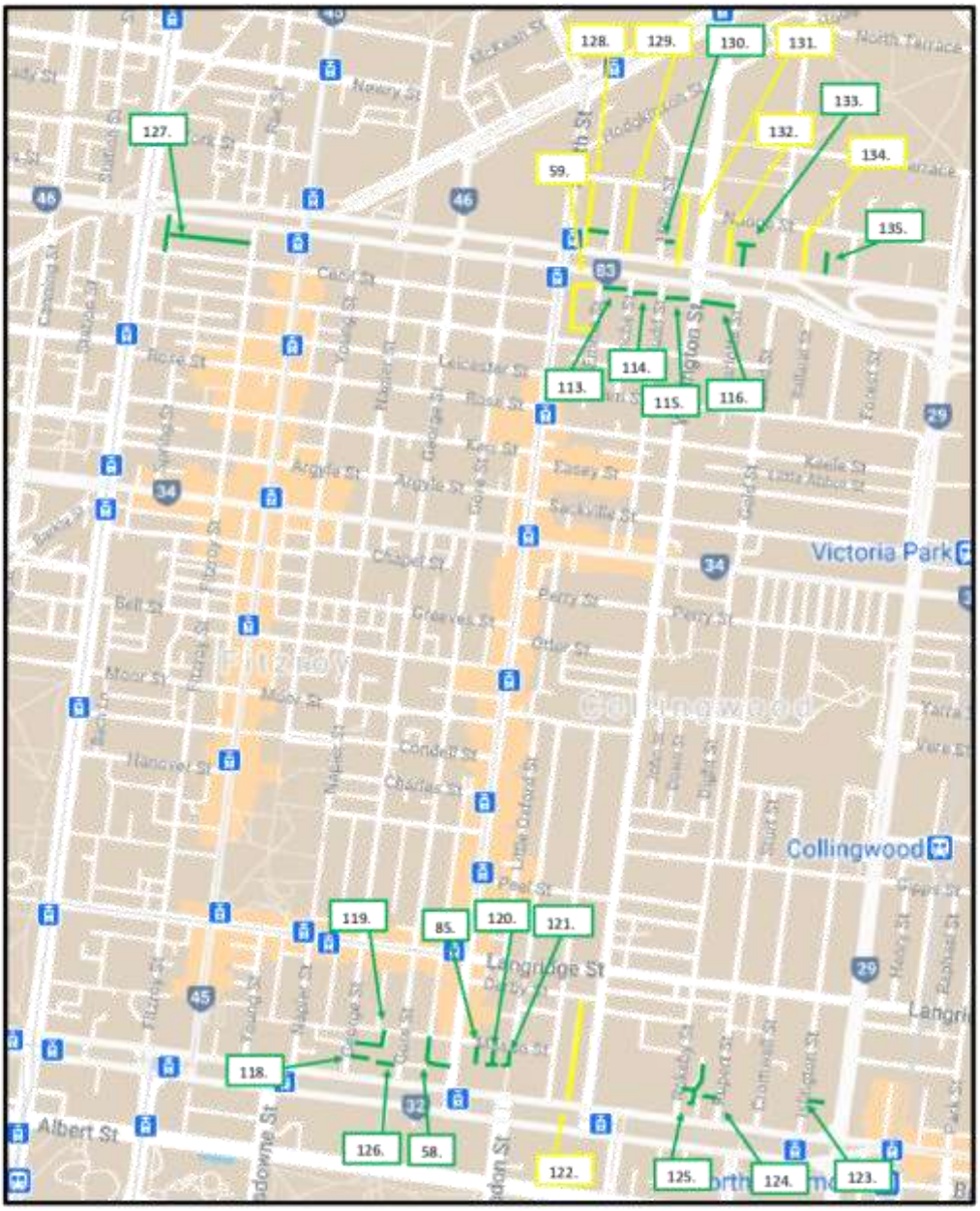
Existing Laneway Conditions

Traffix Group G22790R-02B

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

Appendix B

Brunswick Street & Smith St Activity Centre Traffic Study – Extended Area: Existing Road Network



Appendix B

Brunswick Street & Smith St Activity Centre Traffic Study – Extended Area: Existing Road Network

Street Name	Description	Photo
58: Little Smith Street (from Little Victoria Street to Smith Street)	**Existing Conditions:** • Carriageway width – 3.1m-4.5m • Road Reserve – 3.1m-6.2m • Traffic management – Two-way • Parking – No parking • Footpath – Narrow path/kerbing on both sides for north-south section, none for east-west section • Material – Asphalt and Bluestone • Layout features – there is a 90 degree bend in the ROW with a narrow kink from the property on the southwest corner making it difficult to traverse. **Constraints: Unconstrained Laneway** • Short in length • Corner does not need to be traversed	
59: ROW (from Emma St to Emma Street)	**Existing Conditions:** • Carriageway width – 2.9m-3.05m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Bluestone • Layout features – there are two 90 degree bends on the ROW, with a splay provided for the northern bend. The southern bend does not have a splay and is difficult to traverse. There is also construction going on adjacent to the ROW. **Constraints: Partially constrained** • Lack of splay on the southern bend	
85: ROW (from Mason Street to END)	**Existing Conditions:** • Carriageway width – 3.3m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Unsealed road **Constraints: Unconstrained laneway** • Short in length	

Appendix B

Brunswick Street & Smith St Activity Centre Traffic Study – Extended Area: Existing Road Network

Street Name	Description	Photo
113: ROW from Emma Street to Blanche Street)	**Existing Conditions:** • Carriageway width – 2.8m • Traffic management – Two-way, No entry from Alexandra Parade to both Blanche Street and Emma Street. Right turns are also not permitted from these streets to Alexandra Parade • Parking – No parking • Footpath – No footpath • Material – Bluestone • Layout features – There is a connecting ROW to the south, with splays provided on both corners at the intersection **Constraints: Unconstrained laneway** • Could be made one-way • Continuous	
114: ROW (from Blanche Street to Budd Street)	**Existing Conditions:** • Carriageway width – 3m • Traffic management – Two-way, No entry from Alexandra Parade to both Blanche Street and Budd Street. Right turns are also not permitted from these streets to Alexandra Parade • Parking – No parking • Footpath – No footpath • Material – Bluestone • Layout features – There is a connecting ROW to the south, with a splay provided on the southeast corner. **Constraints: Unconstrained laneway** • Could be made one-way • Continuous	

Appendix B

Brunswick Street & Smith St Activity Centre Traffic Study – Extended Area: Existing Road Network

Street Name	Description	Photo
115: ROW (from Budd Street to Wellington Street)	**Existing Conditions:** • Carriageway width – 3.05m • Traffic management – Two-way, No entry from Alexandra Parade to Budd Street. Right turns are also not permitted from Budd Street to Alexandra Parade • Parking – No parking • Footpath – No footpath • Material – Bluestone • Layout features – There is a connecting ROW to the south, with a splay provided on the southeast corner. **Constraints: Unconstrained laneway** • Could be made one-way • Continuous	
116: ROW (from Wellington Street to Charlotte Street)	**Existing Conditions:** • Carriageway width – 3.15m • Traffic management – Two-way, No entry from Alexandra Parade to Charlotte Street. Right turns are also not permitted from Charlotte Street to Alexandra Parade • Parking – No parking • Footpath – No footpath • Material – Bluestone • Layout features – There is a connecting ROW to the south, with no splays provided. **Constraints: Unconstrained laneway** • Could be made one-way • Continuous	
118: ROW (from George Street to END)	**Existing Conditions:** • Carriageway width – 3.55m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Bluestone **Constraints: Unconstrained laneway** • Short in length	

Appendix B

Brunswick Street & Smith St Activity Centre Traffic Study – Extended Area: Existing Road Network

Street Name	Description	Photo
119: ROW (from Little Victoria Street to END)	**Existing Conditions:** • Carriageway width – 3.2m-3.65m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Asphalt • Layout features – There is a 90 degree bend, with a splay provided on the northwest corner **Constraints: Unconstrained laneway** • Short in length	
120: ROW (from Mason Street to END)	**Existing Conditions:** • Carriageway width – 4m-6.2m • Road Reserve – 4.9m • Traffic management – Two-way • Parking – No parking • Footpath – Footpath on west side • Material – Asphalt • Layout features – There is a T-intersection at the south end of the ROW, with an open car park section which allows for turning **Constraints: Unconstrained laneway** • Wide road, which allows easy manoeuvrability	
121: ROW (from Mason Street to END)	**Existing Conditions:** • Carriageway width – 4.2m-4.45m • Traffic management – Two-way, Mason Street is one-way eastbound • Parking – No parking • Footpath – No footpath • Material – Asphalt • Layout features – There is a 90 degree bend at the south end of the ROW, with an open car park section which allows for turning **Constraints: Unconstrained laneway** • Short in length	

Appendix B

Brunswick Street & Smith St Activity Centre Traffic Study – Extended Area: Existing Road Network

Street Name	Description	Photo
122: ROW (from Derby Street to Victoria Parade)	**Existing Conditions:** • Carriageway width – 3.55m • Traffic management – Two-way, vehicles must enter/exit left at Victoria Parade • Parking – No parking • Footpath – No footpath • Material – Asphalt • Layout features – Long and has a large number of vehicles taking access **Constraints: Partially constrained** • Length • Should be one-way • High development potential	
123: ROW (from Islington Street to END)	**Existing Conditions:** • Carriageway width – 3.2m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Bluestone **Constraints: Unconstrained laneway** • Short in length	
124: ROW (from Rupert Street to END)	**Existing Conditions:** • Carriageway width – 2.9m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Concrete **Constraints: Unconstrained** • Narrow width • Short in length • Limited number of properties, and modifications can be utilised to increase width	

Appendix B

Brunswick Street & Smith St Activity Centre Traffic Study – Extended Area: Existing Road Network

Street Name	Description	Photo
125: ROW (from Rokeby Street to END)	**Existing Conditions:** • Carriageway width – 3.1m-3.4m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Partially bluestone, partially asphalt • Layout features – Has a T-intersection head, where the ROW splits into two directions. Splays are provided on both sides of the split **Constraints: Unconstrained laneway** • Wider around bends and splays provided at each corner, which facilitates adequate room to turn	
126: ROW (from Gore Street to END)	**Existing Conditions:** • Carriageway width – 4.6m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Bluestone **Constraints: Unconstrained laneway** • Short in length	
127: ROW (from Nicholson Street to Cecil Street)	**Existing Conditions:** • Carriageway width – 3.5m-3.8m • Traffic management – One-way (southbound) • Parking – No parking • Footpath – No footpath • Material – Bluestone • Layout features – Has a T-intersection head, where the ROW extends from the centre point of the N-S section to Young Street in the east. No splays are provided **Constraints: Unconstrained laneway** • Short in length • Already one-way • Bend does not require traversal	

Appendix B

Brunswick Street & Smith St Activity Centre Traffic Study – Extended Area: Existing Road Network

Street Name	Description	Photo
128: ROW (from Council Street to Alexandra Parade)	**Existing Conditions:** • Carriageway width – 3.8m-4.1m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Asphalt • Layout features – Has a T-intersection head, where the ROW extends from the the N-S section to Reeves Street in the east. A splay is only provided on the northern corner. **Constraints: Partially constrained** • Long and high development potential • Required works would depend on outcome of current permit application that proposed to convert a portion of the ROW to private land	
129: ROW (from Council Street to Alexandra Parade)	**Existing Conditions:** • Carriageway width – 4.2m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Bluestone • Layout features – Has two separate E-W sections connected to the northern portion via 90 degree bends, with no splays provided on any corners. **Constraints: Partially constrained** • Long and high development potential • Could be made one-way	
130: ROW (from Hilton Street to END)	**Existing Conditions:** • Carriageway width – 3.2m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Concrete **Constraints: Unconstrained laneway** • Short in length	

Appendix B

Brunswick Street & Smith St Activity Centre Traffic Study – Extended Area: Existing Road Network

Street Name	Description	Photo
131: Hilton Lane (from Council Street to Alexandra Parade)	**Existing Conditions:** • Carriageway width – 3.1m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Asphalt **Constraints: Partially constrained** • Long and narrow • Could be made one-way	
132: ROW (from Noone Street to Alexandra Parade)	**Existing Conditions:** • Carriageway width – 4.6m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Asphalt **Constraints: Partially constrained** • Could be made one-way • Limited development potential	
133: ROW (from Alexandra Parade to END)	**Existing Conditions:** • Carriageway width – 3.0m- 5.6m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Bluestone • Layout features – Has a T-head at its end, with no splays, however laneway is wider in vicinity of intersection. **Constraints: Unconstrained laneway** • Short in length • Limited development potential	

Appendix B

Brunswick Street & Smith St Activity Centre Traffic Study – Extended Area: Existing Road Network

Street Name	Description	Photo
134: Copper Lane (from Alexandra Parade to Noone Street)	**Existing Conditions:** • Carriageway width – 4.2m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Bluestone • Layout features – Has a T-head at its end, with no splays, however laneway is wider in vicinity of intersection. **Constraints: Partially constrained** • Could be made one-way • Limited development potential	
135: ROW (from Alexandra Parade to END)	**Existing Conditions:** • Carriageway width – 4.2m • Traffic management – Two-way • Parking – No parking • Footpath – No footpath • Material – Bluestone **Constraints: Unconstrained laneway** • Short in length • Limited development potential	

Appendix C

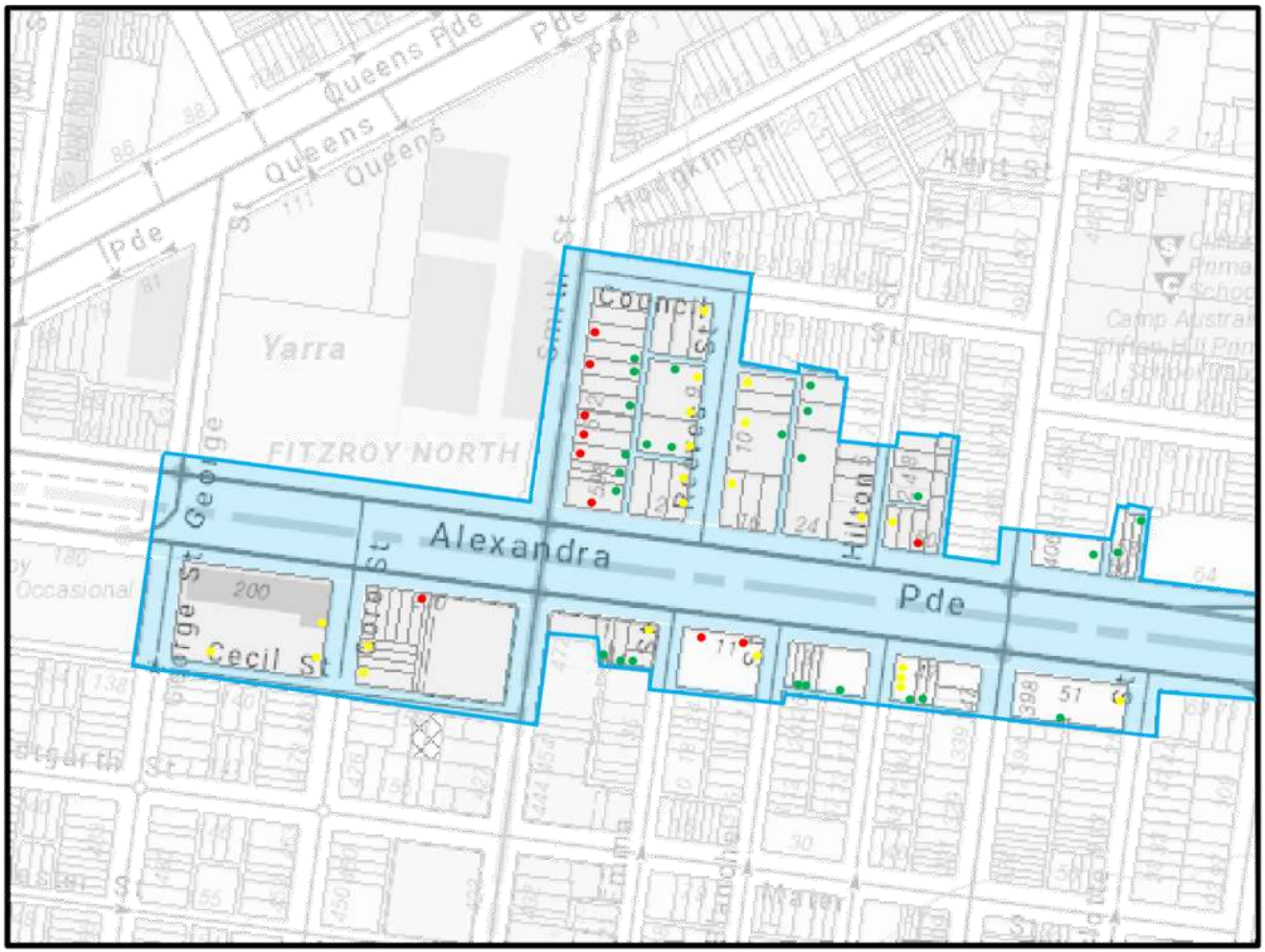
Existing Access Arrangements

Traffix Group G22790R-02B

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

Appendix C

Brunswick Street & Smith Street Traffic Study – Extended Area: Existing Access Conditions

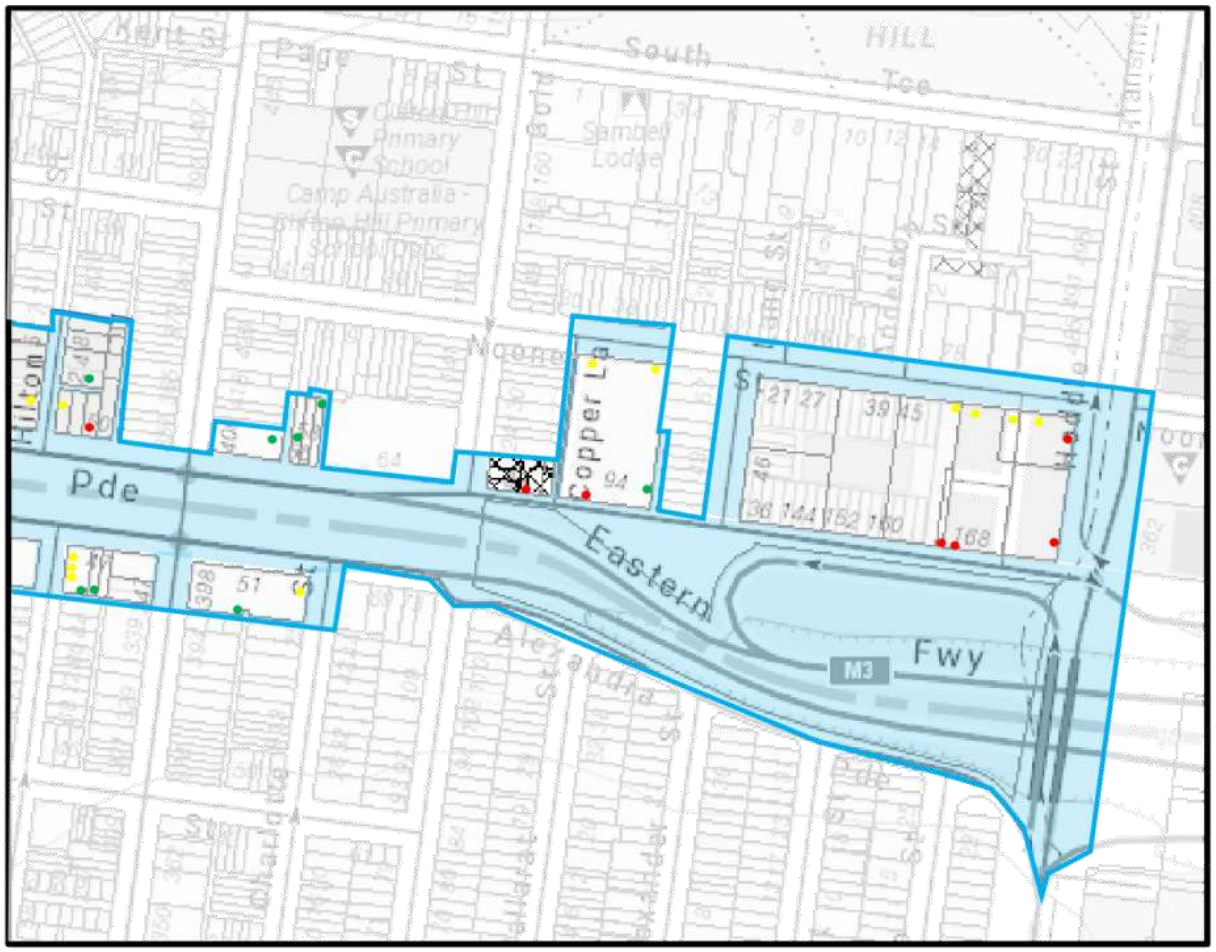


MAP NO.1

Legend

- Study Area Boundary
- Access to Alexandra Pde
- Access to RoW
- Access to side street

Attachment 7 - Attachment 7 - Traffic Engineering Assessment



MAP NO.2

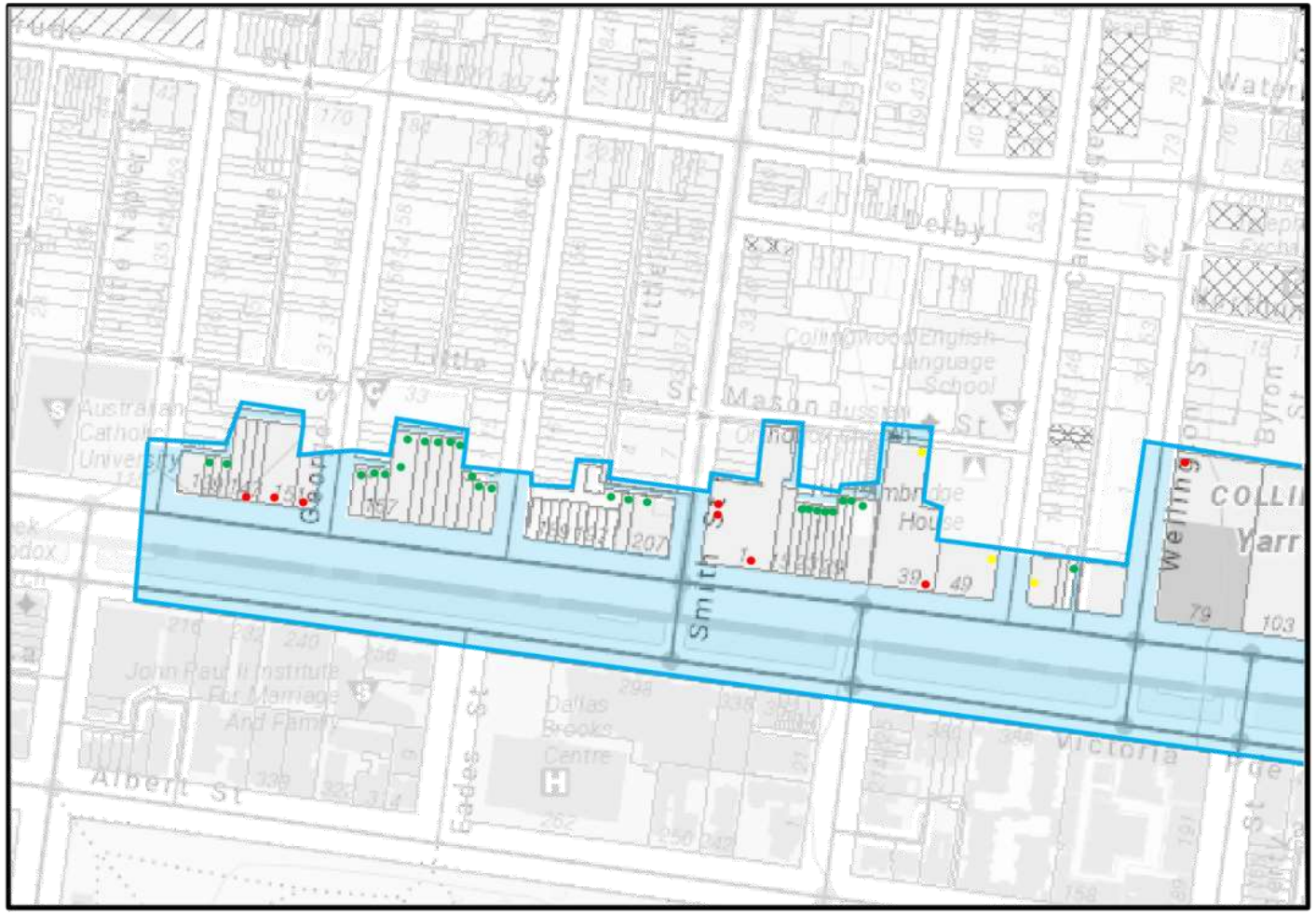
Legend

- Study Area Boundary
- Access to Alexandra Pde
- Access to RoW
- Access to side street

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

Appendix C

Brunswick Street & Smith Street Traffic Study – Extended Area: Existing Access Conditions

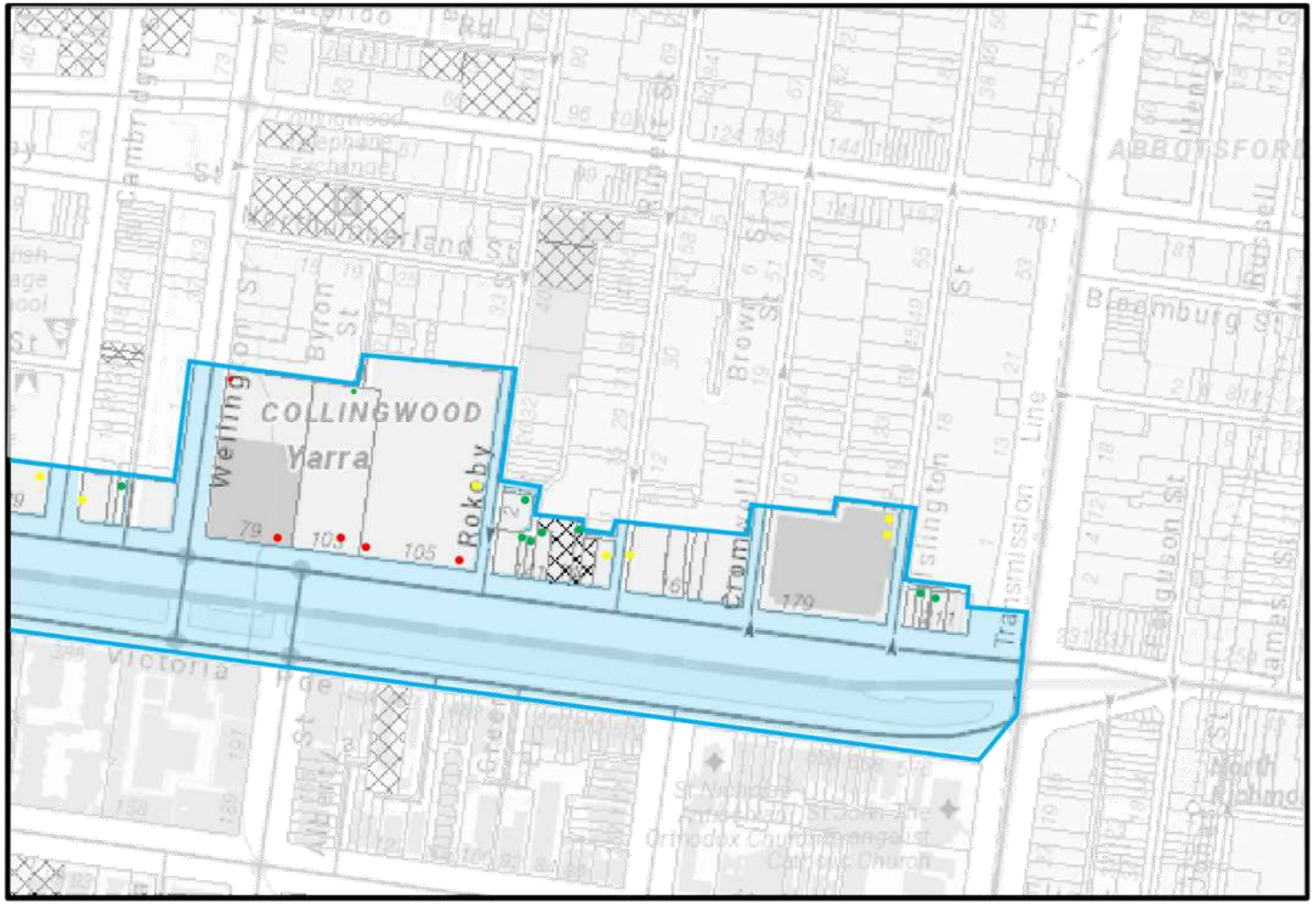


MAP NO.3

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

Appendix C

Brunswick Street & Smith Street Traffic Study – Extended Area: Existing Access Conditions



MAP NO.4

Legend

- Study Area Boundary
- Access to Victoria Pde
- Access to RoW
- Access to side street

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

Appendix C

Brunswick Street & Smith Street Traffic Study – Extended Area: Existing Access Conditions

MAP NO.5

Attachment 7 - Attachment 7 - Traffic Engineering Assessment

MAP NO.6

Legend

- Study Area Boundary
- Access to Nicholson St
- Access to RoW
- Access to side street

Design and Development Overlay Schedule 38 – Alexandra Parade

1 Objectives

To ensure development responds to the heritage character and varied streetscape of Alexandra Parade by supporting:

- a new mid-rise character (ranging from 3 to 10 storeys) behind a consistent street wall to the west of Emma Street on the south side and west of Hilton Lane on the north;
- a new lower- to mid-rise character (ranging from 3 to 6 storeys) behind a consistent street wall between Emma and Charlotte Streets on the south side; and
- a new mid-rise character (ranging from 3 to 8 storeys) behind a varied heritage street wall east of Gold Street on the north and south sides.

To ensure development retains view lines to the Clifton Hill Shot Tower (municipal landmark) and maintains the prominence and integrity of corner heritage buildings.

To ensure development maintains the prominence of the existing heritage street wall and fine-grain heritage character through recessive upper levels and a façade composition and articulation that complements the prevailing character.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of footpaths on the opposite side of streets, central median of Alexandra Parade and public spaces.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

2.0 Buildings and works

A permit is required to construct a building or construct or carry out works, except for:

- rear ground floor extensions no higher than 4 metres above natural ground level;
- an alteration to an existing building façade provided:
    - the alteration does not include the installation of an external roller shutter;
    - in a C1Z, at least 80 per cent of the building façade at ground floor level is maintained as an entry or window with clear glazing; and
    - in a MUZ, the alterations include and/or retain existing windows and pedestrian entry points and do not increase blank walls.
- construction of an awning to an existing building that projects over a road, if it is authorised by the relevant public land manager.

2.1 Definitions

Heritage building means any building subject to a Heritage Overlay and graded as either Contributory or Individually Significant, or any building on the Victorian Heritage Register.

Laneway means a road reserve of a public road 9 metres or less in width.

Parapet does not include features such as brackets, pediments, urns, finials or other decorative elements.

Public realm means all streets and spaces open to the public but does not include laneways.

Street wall means the façade of a building at the street boundary, or if the existing heritage building is set back from the street boundary, the front of the existing building.

Street wall height means the height of the street wall measured by the vertical distance between the footpath at the centre of the frontage and the highest point of the building, parapet, balustrade or eaves at the street edge; or in the case of a heritage building, if it is set back from the street from the natural ground level at the centre of the building frontage to the highest point of the building, parapet, balustrade or eaves.

Upper level means development above the height of the street wall.

Upper level setback means the setback of the upper level measured from the street wall of the building.

2.2 General Requirements

A permit cannot be granted under this Design and Development Overlay to vary a requirement expressed with the term 'must'.

The requirements below apply to an application to construct a building or construct or carry out works.

2.3 Street Wall Height Requirements

Street wall heights should not exceed the heights specified in Maps 1 or 2, as applicable and as stated below.

Infill development must match the parapet height of the adjacent heritage building to the width of the property boundary or 6m, whichever is the lesser.

Development should achieve a continuous street wall with no front setback to a street, unless the site is a heritage building and a front setback already exists.

The street wall on corner buildings should continue the main frontage street wall height for a minimum of 8 metres to the side street, with a transition in height to match the rear interface where required.

Development of non-heritage buildings on street corners should provide a corner splay at minimum of 1 x 1 meter along the site's corner boundaries.

Development should retain the visual prominence of:

- the heritage street wall in the vistas along the street; and
- heritage fabric of the return façades of heritage buildings on corner sites.

2.4 Upper Level Front and Side Setback Requirements

Upper levels above the street wall of heritage buildings must be set back by a minimum of 6 metres.

Upper levels above the street wall of sites immediately abutting land subject to the Heritage Overlay should be set back by a minimum of 6 metres.

Upper levels above the street wall of non-contributory buildings on the northern side of Alexandra Parade and along Cecil Street, Council Street, George Street, Gore Street and Smith Street should be setback by a minimum of 6 metres.

Upper levels above Noone Street should be of limited visibility from the opposite footpath.

Upper levels above all other non-contributory sites should be setback by a minimum of 3 metres.

Upper levels above secondary street wall should be set back by a minimum of 3 metres, unless specified otherwise.

Upper levels should:

- be visually recessive from main frontages and side streets to ensure development does not overwhelm the heritage streetscape and minimise upper level bulk;
- be set back from the street wall below to ensure that upper level additions as seen from the public realm do not detract from the character of the streetscape when viewed directly or obliquely along the street; and
- contain upper level setbacks above the street wall within a maximum of two steps (including the setback above the street wall below as one step) to avoid repetitive steps in the built form.

Projections such as building services and architectural features (other than shading devices, mouldings etc.), balconies and balustrades should not protrude into a setback.

For heritage buildings, upper level setbacks behind the street wall in excess of the minimum upper level setback should be provided where:

- it would facilitate the retention of a roof form and/or chimneys that are visible from the public realm, or a roof or any feature that the relevant statement of significance identifies as contributing to the significance of the heritage building or streetscape;
- it would maintain the perception of the three-dimensional form and depth of the building; and
- a lesser setback would detract from the character of the streetscape when viewed directly or obliquely along the street.

2.5 Overall Building Height Requirements

Development should not exceed the heights shown on Maps 1 and 2, as applicable.

A permit should only be granted to construct a building or carry out works which exceeds the building heights shown on Maps 1 and 2 where each of the following requirements are met to the satisfaction of the responsible authority:

- the minimum common boundary and building separation requirements in this schedule are exceeded by at least 1 metre for levels above the height;

- accessibility provision that achieves the standards in Clauses 55.07 and 58.05 (as relevant) for a minimum of 70% of dwellings;
- communal open space provision that exceeds the minimum standards in Clauses 55.07 and 58.03 by a minimum of 20%;
- secluded private open space provision that exceeds the minimum standards in Clauses 55.07 and 58.05 by a minimum of 20% for each dwelling;
- excellence for environmentally sustainable design measured as a minimum BESS project score of 70%; and
- no additional overshadowing to secluded private open space of residentially zoned properties outside of the schedule and/or opposite footpath, kerb outstands etc. beyond that which would be generated by a proposal that complies with the maximum building height.

Architectural features may exceed the building height.

Service equipment/structures including balustrades, unenclosed pergolas for communal areas, shading devices, plant rooms, lift overruns, stair wells, structures associated with pedestrian access, green roof areas and other such equipment may exceed the height provided that:

- the equipment and/or structures do not cause additional overshadowing of private open space to residential land, opposite footpaths, kerb outstands etc.;
- the equipment/structures are no higher than 2.6 metres above the proposed building height; and
- the equipment/structures occupy less than 50 per cent of the roof area (solar panels excepted).

Map 1: Street Wall and Building Heights (west of Wellington Street)

Map 2: Street Wall and Building Heights (east of Wellington Street)

2.6 Interface Requirements

Development on a rear boundary should not exceed the maximum heights in Table 1.

Table 1: Rear boundary wall heights

Adjoining Zone	Maximum rear boundary wall height
NRZ	8m – Whether or not separated by a laneway
GRZ	11.2m – Where there is an existing laneway 8m – Where there is no laneway
MUZ / C1Z / C2Z	11.2m – Whether or not separated by a laneway

Upper levels above a rear boundary wall must be set back from the rear boundary and be contained within a 45 degree setback envelope. The envelope's angle is to be measured perpendicular to the

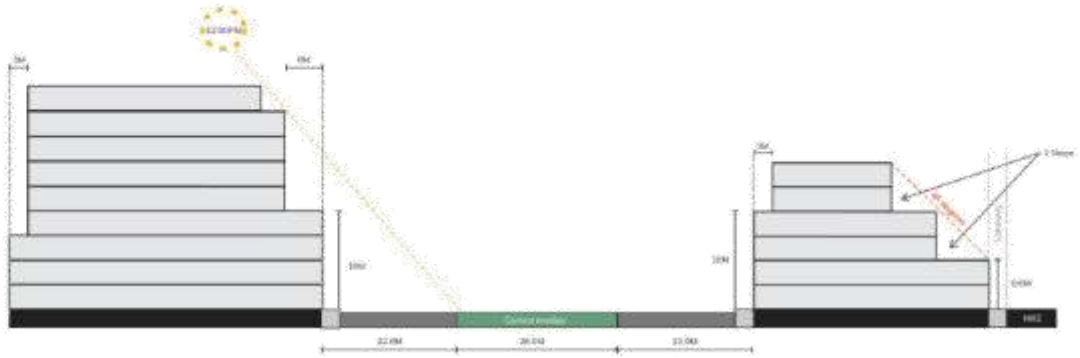
adjoining residential site's boundary, taken from the centre of the boundary. This does not apply to a Commercial 1 Zone and/or Mixed Use Zone interface.

Upper level setbacks above the rear boundary wall should be contained within a maximum of two steps (including the setback above the boundary wall below as one step) to avoid repetitive stepping of individual levels.

Development should respond to existing secluded private open spaces by setting back at upper levels to create a sense of separation, minimise overshadowing and reduce building bulk.

Development should not visually dominate adjoining residential sites, including where separated by a laneway.

Figure 1: Indicative Cross Section and Measurements



2.7 Overshadowing and Daylight Access

Development should meet the objective of Clause 55.04-5 Overshadowing for adjoining land within a Neighbourhood Residential Zone and/or General Residential Zone, including where separated by a laneway.

New development must not overshadow:

- the central median of Alexandra Parade at 12pm on 22 September;
- the footpath on the western side of any street (3m from property boundary, including the street) at 10am and eastern footpaths (3m from property boundary, including the street) at 2pm on 22 September;
- any opposite kerb outstands, seating and/or planting areas (as applicable), between 10am and 2pm at 22 September.

New development should not overshadow properties fronting Hilton Street, from the first floor upwards between 10am and 2pm on 22 September.

2.8 Common Boundary and Building Separation Requirements

Where development shares a common boundary within the overlay and/or adjoins a Commercial 1 Zone and/or Mixed Use Zone outside of the overlay, upper level development should:

- be set back a minimum of 4.5m from the common side boundary, where a habitable window or balcony facing the common boundary is proposed on the subject site or exists on the adjacent property; and
- be set back a minimum of 3m from the common side boundary where a commercial or non-habitable window facing the common boundary is proposed on the subject site or exists on the adjacent property (including the Commercial 2 Zone).

Where the common boundary is a laneway, the setback is measured from the centre of the laneway.

Where development consists of multiple buildings and/or separate upper levels, upper level development should:

- be set back a minimum of 9m from each other, where a habitable window or balcony is proposed; and
- be set back a minimum of 6m from each other where a commercial or non-habitable window is proposed.

2.9 Building Layout Requirements

Internal layout of commercial and residential units should show how they can be adapted over time, including demonstrating how commercial and residential units can be combined or divided without major structural remedial works.

Ensure shop front widths are not reduced to the extent they become commercially unviable.

Buildings in the Commercial 1 Zone and/or Mixed Use Zone should:

- be designed to accommodate commercial activity at the ground and first floor levels; and
- incorporate floor to floor heights suitable for commercial activity of at least 4 metres at ground and first floor level, where heritage elements are not a constraint.

2.10 Façade Design Requirements

Infill development in the Commercial 1 Zone fronting Alexandra Parade should achieve a fine-grain, shop front design at ground level that includes elements of:

- a stall riser;
- pilasters;
- a verandah or canopy (where applicable); and
- clerestory window.

Development should achieve active frontage design at ground level to create a pedestrian-oriented environment and passive surveillance towards the public realm.

Development façades should:

- relate to the vertical and horizontal proportions of the existing, varied retail, commercial and residential character, as applicable.
- create a suitable ratio of solid and void elements;

- create visual interest through the arrangement of fenestration, balconies and the application of architectural features such as external shading devices, window sills etc.;
- avoid overly busy façades that rely on a multitude of materials and colours;
- maintain existing openings and the inter-floor height of a heritage building and avoid new floor plates and walls cutting through historic openings;
- avoid highly reflective glazing in openings of heritage buildings;
- encourage the retention of solid built form behind retained heritage façades and avoid balconies behind existing openings;
- be simple and not compete with the more elaborate detailing of the heritage building(s) on the subject site or an adjoining site;
- avoid large expanses of glazing with a horizontal emphasis, except to ground floor shopfronts; and
- ensure projections such as balconies, building services, architectural features (other than shading devices, mouldings etc.) do not intrude into a setback and not dominate the façade.

Building services and service cabinets should be located away from the primary street frontage and should be designed and located so they complement the street frontage and character and appearance of the building.

Development should avoid blank walls visible to the public realm, including on side street frontages.

Blank side walls in a mid-block location which are visible permanently or temporarily from adjoining residential sites and/or the public realm should be designed to provide visual interest to passing pedestrians through colour, texture or finishes.

2.11 Access, Parking and Loading Areas Requirements

Pedestrian access to buildings should be achieved via streets and avoid primary access from laneways. Where pedestrian access from a laneway is appropriate, it should include a pedestrian refuge or landing.

Ensure pedestrian entrances are clearly visible, secure and have an identifiable sense of address.

Residential and commercial pedestrian entrances should be distinguishable from each other.

The common pedestrian areas of new buildings should be designed with legible and convenient access, with hallway and lobby areas of a size that reflects the quantity of apartments serviced and which can be naturally lit and ventilated.

Resident and staff bicycle parking should be located and designed to be secure and conveniently accessible from the street and associated uses.

Vehicle access should be achieved from laneways or side streets (in that order of preference).

At the intersection of laneways and footpaths, development to non-heritage buildings should provide a minimum 1 x 1 metre splay to ensure pedestrian safety.

Car parking should be located within a basement or concealed from the public realm.

Development must not provide additional vehicular access from Alexandra Parade.

Vehicle ingress and egress into development, including loading facilities and building servicing, should be designed to ensure a high standard of pedestrian amenity and limit potential conflict between vehicle movements and pedestrian activity.

Development with redundant vehicle access points should reinstate the kerb, line-marked parking bays, and relocate any parking signs.

Development with laneway access may require a ground level set back in order to achieve practicable vehicle access. Between ground level and first floor, a headroom clearance of 3.5m minimum should be achieved.

Ensure access to service laneways is maintained in order to facilitate commercial use of the properties fronting Alexandra Parade.

Properties on the inside corner of bends in laneways or at intersections between two laneways should provide a minimum 3m x 3m splay to facilitate vehicle access.

3.0 Subdivision

None specified.

4.0 Advertising

None specified.

5.0 Application Requirements

The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- a site analysis and urban design context report which demonstrates how the proposal achieves the Design Objectives and requirements of this schedule;
- for development proposals for buildings over 20 metres in height should be accompanied by a wind study analysis to assess the impact of wind on the safety and comfort of the pedestrian environment on footpaths and other public spaces while walking, sitting and standing; and
- a Traffic Engineering Report prepared by a suitably qualified traffic engineer that demonstrates how the development:
  - minimises impacts on the level of service, safety and amenity of the arterial road network (including tram services);
  - reduces car dependence and promotes sustainable transport modes; and
  - which includes an assessment of the impacts of traffic and parking in the Precinct including an assessment of the ongoing functionality of laneway/s, where applicable.

6.0 Decision Guidelines

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- whether the requirements in Clauses 2.2 to 2.11 are met;
- whether the design of the streetscape interface makes a positive contribution to an active, pedestrian-oriented street environment and/or public realm;
- whether the design of development fronting Alexandra Parade adds to the high-amenity boulevard setting;
- whether development retains the prominence of the Clifton Hill Shot Tower in the precinct;
- whether heritage buildings on street corners retain their prominence when viewed from the opposite side of Alexandra Parade;
- whether heritage buildings retain their three-dimensional form as viewed from the public realm, including the opposite side of the street;
- whether upper level development above the heritage street wall is visually recessive and does not dominate or visually overwhelm the heritage buildings;
- whether a strong sense of separation between upper levels and street walls is achieved when viewed from the opposite side of the street;
- whether the development delivers design excellence, including but not limited to building siting, scale, massing, articulation and materials;
- whether upper side and rear setbacks are sufficient to limit the impact on the amenity of existing dwellings;
- the shadowing impacts of the development on opposite footpaths and public spaces are minimised;
- whether proposed roof decks are set back from lower levels and are recessive in appearance;
- whether the development mitigates negative wind effects;
- the cumulative impact of development on traffic and parking in the nearby area, including on the functionality of laneways; and
- whether the layout and appearance of areas set aside for vehicular access, loading and unloading and the location of any proposed car parking is practicable, safe and supports a pedestrian-oriented design outcome.

Expiry

The requirements of this schedule cease to have effect 2 years after publication in the Government Gazette *(Note: Minister to insert date)*

Reference Documents

Brunswick and Smith Street Built Form Review – Background Analysis Report, 2019

Built Form Review: Alexandra Parade – Heritage Analysis and Recommendations, 2020

Alexandra Parade Precinct Review and Built Form Framework, 2020

Traffic Engineering Assessment – Brunswick Street and Smith Street Activity Centres - Extended Area, 2020

Design and Development Overlay Schedule 39 – Victoria Parade

1 Objectives

To ensure development responds to the varied character and open streetscape of Victoria Parade by supporting:

- A new lower- to mid-rise character (ranging from 3 to 7 storeys) behind a varied heritage street wall west of Wellington Street, excluding the Smith Street junction;
- a new mid-rise character (ranging from 3 to 10 storeys) behind a consistent street wall at the Smith Street junction; and
- A new mid- to higher-rise character (ranging from 3 to 12 storeys) behind a new, consistent street wall east of Wellington Street.

To ensure development to the west of Wellington Street respects the low-scale, fine grain heritage street wall and buildings, through recessive upper levels and façade composition, and articulation that complements the heritage character.

To ensure new development responds to the grand, tree lined, boulevard character of Victoria Parade.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths, public spaces and Victoria Parade's central median.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

2.0 Buildings and works

A permit is required to construct a building or construct or carry out works, except for:

- rear ground floor extensions no higher than 4 metres above natural ground level;
- an alteration to an existing building façade provided:
    - the alteration does not include the installation of an external roller shutter;
    - in a C1Z, at least 80 per cent of the building façade at ground floor level is maintained as an entry or window with clear glazing; and
    - in a MUZ, the alterations include and/or retain existing windows and pedestrian entry points and do not increase blank walls.
- construction of an awning to an existing building that projects over a road, if it is authorised by the relevant public land manager.

2.1 Definitions

Heritage building means any building subject to a Heritage Overlay and graded as either Contributory or Individually Significant, or any building on the Victorian Heritage Register.

Laneway means a road reserve of a public road 9 metres or less in width.

Parapet does not include features such as brackets, pediments, urns, finials or other decorative elements.

Public realm means all streets and spaces open to the public but does not include laneways.

Street wall means the façade of a building at the street boundary, or if the existing heritage building is set back from the street boundary, the front of the existing building.

Street wall height means the height of the street wall measured by the vertical distance between the footpath at the centre of the frontage and the highest point of the building, parapet, balustrade or eaves at the street edge; or in the case of a heritage building, if it is set back from the street from the natural ground level at the centre of the building frontage to the highest point of the building, parapet, balustrade or eaves.

Upper level means development above the height of the street wall.

Upper level setback means the setback of the upper level measured from the street wall of the building.

2.2 General Requirements

A permit cannot be granted under this Design and Development Overlay to vary a requirement expressed with the term 'must'.

The requirements below apply to an application to construct a building or construct or carry out works.

2.3 Street Wall Height and Setback Requirements

Street wall heights should not exceed the heights specified in Map 1s and 2, as applicable and as stated below.

Infill development must match the parapet height of the adjacent heritage building to the width of the property boundary or 6m, whichever is the lesser.

Development along Victoria Parade should achieve a continuous street wall with no front setback, unless the site is a heritage building and a front setback already exists.

The street wall on corner buildings should continue the main frontage street wall height for a minimum of 8 metres to the side street, with a transition in height to match the rear interface where required.

Development of non-heritage buildings on street corners should provide a corner splay at minimum of 1 x 1 meter along the site's corner boundaries.

Development should retain the visual prominence of:

- the heritage street wall in the vistas along the street; and
- heritage fabric of the return façades of heritage buildings on corner sites.

2.4 Upper Level Setback Requirements

Upper levels above the street wall within or immediately adjacent to land subject to the Heritage Overlay must be set back by a minimum of 6m on Victoria Parade and Wellington Street.

Upper levels above the street wall for all other sites should be set back by a minimum of 6m from the primary frontage.

Upper levels above the street wall should be set back by 3 metres from the secondary frontage.

Upper levels should:

- be visually recessive from main frontages and side streets to ensure development does not overwhelm the heritage streetscape and minimise upper level bulk;
- be set back from the street wall below to ensure that upper level additions as seen from the public realm do not detract from the character of the streetscape when viewed directly or obliquely along the street; and
- contain upper level setbacks above the street wall within a maximum of two steps (including the setback above the street wall below as one step) to avoid repetitive steps in the built form.

Projections such as building services and architectural features (other than shading devices, mouldings etc.), balconies and balustrades should not protrude into a setback.

For heritage buildings, upper level setbacks behind the street wall in excess of the minimum upper level setback should be provided where:

- it would facilitate the retention of a roof form and/or chimneys that are visible from the public realm, or a roof or any feature that the relevant statement of significance identifies as contributing to the significance of the heritage building or streetscape;
- it would maintain the perception of the three-dimensional form and depth of the building; and
- a lesser setback would detract from the character of the streetscape when viewed directly or obliquely along the street.

2.5 Overall Building Height Requirements

Development should not exceed the heights shown on Maps 1 and 2, as applicable.

For development greater than 10 storeys, the upper levels should be further set back in order to be visually recessive and achieve limited visibility from the surrounding public realm.

A permit should only be granted to construct a building or carry out works which exceeds the building heights shown on Maps 1 and 2 where each of the following requirements are met to the satisfaction of the responsible authority:

- the minimum common boundary and building separation requirements in this schedule are exceeded by at least 1 metre each for levels above the height;
- accessibility provision that achieves the standards in Clauses 55.07 and 58.05 (as relevant) for a minimum of 70% of dwellings;
- communal open space provision that exceeds the minimum standards in Clauses 55.07 and 58.03 by a minimum of 20%;

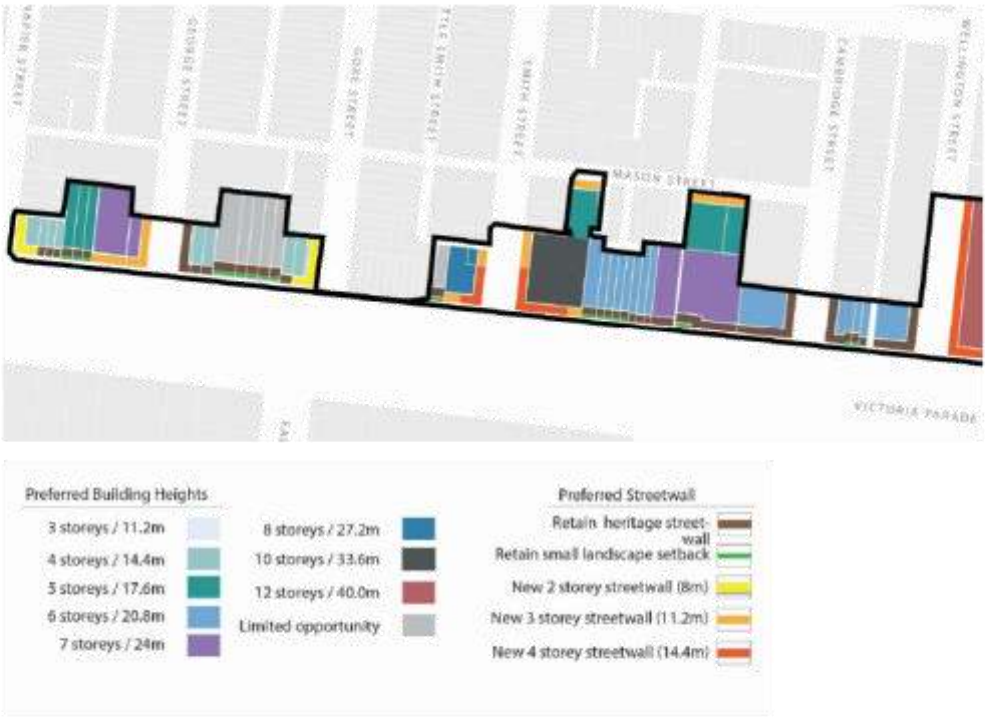
- secluded private open space provision that exceeds the minimum standards in Clauses 55.07 and 58.05 by a minimum of 20% for each dwelling;
- excellence for environmentally sustainable design measured as a minimum BESS project score of 70%; and
- no additional overshadowing to secluded private open space of residentially zoned properties outside of the schedule and/or opposite footpath, kerb outstands etc. beyond that which would be generated by a proposal that complies with the maximum building height.

Architectural features may exceed the building height.

Service equipment and/or structures including balustrades, unenclosed pergolas for communal areas, shading devices, plant rooms, lift overruns, stair wells, structures associated with pedestrian access, green roof areas and other such equipment may exceed the height provided that:

- the equipment/structures do not cause additional overshadowing of private open space to residential land, opposite footpaths, kerb outstands etc.; and
- the equipment/structures are no higher than 2.6 metres above the proposed building height; and
- the equipment/structures occupy less than 50 per cent of the roof area (solar panels excepted).

Map 1: Street Wall Heights and Building Heights (west of Wellington Street)



Map 2: Street Wall Heights and Building Heights (east of Wellington Street)

2.6 Interface Requirements

Development on a rear boundary should not exceed the maximum heights in Table 1.

Table 1: Rear boundary wall heights

Adjoining Zone	Maximum rear boundary wall height
NRZ	8m – Whether or not separated by a laneway
GRZ	11.2m – Where there is an existing laneway 8m – Where there is no laneway
MUZ / C1Z / C2Z	11.2m – Whether or not separated by a laneway

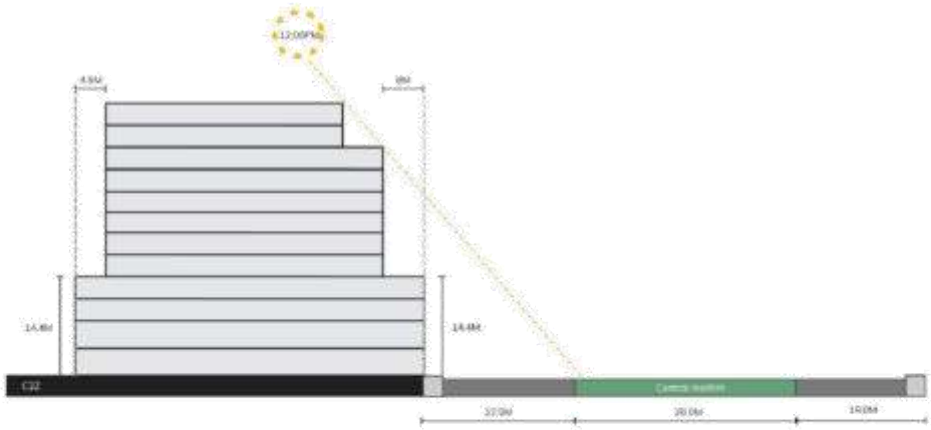
Upper levels above a rear boundary wall must be set back from the rear boundary and be contained within a 45 degree setback envelope. The envelope's angle is to be measured perpendicular to the adjoining residential site's boundary, taken from the centre of the boundary. This does not apply to a Commercial 1 Zone and/or Mixed Use Zone interface.

Upper level setbacks above the rear boundary wall should be contained within a maximum of two steps (including the setback above the boundary wall below as one step) to avoid repetitive stepping of individual levels.

Development should respond to existing secluded private open spaces by setting back at upper levels to create a sense of separation, minimise overshadowing and reduce building bulk.

Development should not visually dominate adjoining residential sites, including where separated by a laneway.

Figure 1: Indicative Cross Sections and Measurements



2.7 Overshadowing

Development should meet the objective of Clause 55.04-5 Overshadowing for adjoining land within a Neighbourhood Residential Zone and/or General Residential Zone, including where separated by a laneway.

New development must not overshadow:

- the northern edge of the Victoria Parade central median at 12pm on 22 September;
- the footpath on the western side of any street (3m from property boundary, including the street) at 10am and eastern footpaths (3m from property boundary, including the street) at 2pm on 22 September (except Cromwell, Islington, Rockeby and Rupert Streets);
- any opposite kerb outstands, seating and/or planting areas (as applicable), between 10am and 2pm at 22 September.

New development should not overshadow properties fronting Cromwell, Islington, Rokeby and Rupert Streets from the first floor upwards between 10am and 2pm on 22 September.

2.8 Common Boundary and Building Separation Requirements

Where development shares a common boundary within the overlay and/or adjoins a Commercial 1 Zone and/or Mixed Use Zone outside of the overlay, upper level development should:

- be set back a minimum of 4.5m from the common side boundary, where a habitable window or balcony facing the common boundary is proposed on the subject site or exists on the adjacent property; and

- be set back a minimum of 3.0m from the common side boundary where a commercial or non-habitable window facing the common boundary is proposed on the subject site or exists on the adjacent property (including Commercial 2 Zone).

Where the common boundary is a laneway, the setback is measured from the centre of the laneway.

Where development consists of multiple buildings and/or separate upper levels, upper level development should:

- be set back a minimum of 9m from each other, where a habitable window or balcony is proposed; and
- be set back a minimum of 6m from each other where a commercial or non-habitable window is proposed.

Development on large sites should achieve visual breaks in the urban block and create pedestrian access, as identified on Map 2.

2.9 Building Layout Requirements

Internal layout of commercial and residential units should show how they can be adapted over time, including demonstrating how commercial and residential units can be combined or divided without major structural remedial works.

Ensure shop front widths are not reduced to the extent they become commercially unviable.

Buildings in the Commercial 1 Zone and/or Mixed Use Zone should:

- be designed to accommodate commercial activity at the ground floor level; and
- incorporate floor to floor heights suitable for commercial activity of at least 4 metres at ground floor level, where heritage elements are not a constraint.

2.10 Façade Design Requirements

Development along Victoria Parade should achieve active frontage design at ground level to create a high-amenity, pedestrian-oriented environment and passive surveillance towards the public realm.

Development façades should:

- relate to the vertical and horizontal proportions of either:
  - the historic fine-grain residential and retail shop front character of Victoria Parade to the west of Wellington Street; or
  - the modern commercial character of Victoria Parade to the east of Wellington Street;
- create a suitable ratio of solid and void elements;
- create visual interest through the arrangement of fenestration, balconies and the application of architectural features such as external shading devices, window sills etc.;
- avoid overly busy façades that rely on a multitude of materials and colours;
- maintain existing openings and the inter-floor height of a heritage building and avoid new floor plates and walls cutting through historic openings;
- avoid highly reflective glazing in openings of heritage buildings;

- encourage the retention of solid built form behind retained heritage façades and avoid balconies behind existing openings;
- be simple and not compete with the more elaborate detailing of the heritage building(s) on the subject site or an adjoining site;
- avoid large expanses of glazing with a horizontal emphasis, except to ground floor shopfronts and former industrial buildings; and
- ensure projections such as balconies, building services, architectural features (other than shading devices, mouldings etc.) do not intrude into a setback and not dominate the façade.

Building services and service cabinets should be located away from the primary street frontage and should be designed and located so they complement the street frontage and character and appearance of the building.

Development should avoid blank walls visible to the public realm, including on side street frontages.

Blank side walls in a mid-block location which are visible permanently or temporarily from adjoining residential sites and/or the public realm should be designed to provide visual interest to passing pedestrians through colour, texture or finishes.

2.11 Access, Parking and Loading Areas Requirements

Pedestrian access to buildings should be achieved via streets and avoid primary access from laneways. Where pedestrian access from a laneway is appropriate, it should include a pedestrian refuge or landing.

Ensure pedestrian entrances are clearly visible, secure and have an identifiable sense of address.

Residential and commercial pedestrian entrances should be distinguishable from each other.

The common pedestrian areas of new buildings should be designed with legible and convenient access, with hallway and lobby areas of a size that reflects the quantity of apartments serviced and which can be naturally lit and ventilated.

Resident and staff bicycle parking should be located and designed to be secure and conveniently accessible from the street and associated uses.

Vehicle access should be achieved from laneways or side streets (in that order of preference).

At the intersection of laneways and footpaths, development to non-heritage buildings should provide a minimum 1 x 1 metre splay to ensure pedestrian safety.

Car parking should be located within a basement or concealed from the public realm.

Development should not provide additional vehicular access from Victoria Parade.

Vehicle ingress and egress into development, including loading facilities and building servicing, should be designed to ensure a high standard of pedestrian amenity and limit potential conflict between vehicle movements and pedestrian activity.

Development with redundant vehicle access points should reinstate the kerb, line-marked parking bays, and relocate any parking signs.

Development with laneway access may require a ground level set back in order to achieve practicable vehicle access. Between ground level and first floor, a headroom clearance of 3.5 meters minimum should be achieved.

Ensure access to service laneways is maintained in order to facilitate commercial use of the properties fronting Victoria Parade.

Properties on the inside corner of bends in laneways or at intersections between two laneways should provide a minimum 3m x 3m splay to facilitate vehicle access.

3.0 Subdivision

None specified.

4.0 Advertising

None specified.

5.0 Application Requirements

The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- a site analysis and urban design context report which demonstrates how the proposal achieves the Design Objectives and requirements of this schedule;
- for development proposals for buildings over 20 metres in height should be accompanied by a wind study analysis to assess the impact of wind on the safety and comfort of the pedestrian environment on footpaths and other public spaces while walking, sitting and standing; and
- a Traffic Engineering Report prepared by a suitably qualified traffic engineer that demonstrates how the development:
    - minimises impacts on the level of service, safety and amenity of the arterial road network (including tram services);
    - reduces car dependence and promotes sustainable transport modes; and
    - which includes an assessment of the impacts of traffic and parking in the Precinct including an assessment of the ongoing functionality of laneway/s, where applicable.

6.0 Decision Guidelines

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- whether the requirements in Clauses 2.2 to 2.11 are met;

- whether the design of the streetscape interface makes a positive contribution to an active, pedestrian-oriented street environment and/or public realm;
- whether the design of development fronting Victoria Parade adds to the high-amenity boulevard setting;
- whether the design of development fronting Victoria Parade precinct achieves a fine grain shop-front character west of Wellington Street and a commercial character east of Wellington Street;
- whether development retains the prominence of the heritage street wall (west of Wellington Street) in the vistas along Victoria Parade;
- whether heritage buildings on street corners retain their prominence when viewed from the opposite side of Victoria Parade;
- whether heritage buildings retain their three-dimensional form as viewed from the public realm, including the opposite side of the street;
- whether upper level development above the heritage street wall is visually recessive and does not dominate or visually overwhelm the heritage buildings;
- whether a strong sense of separation between upper levels and street walls is achieved when viewed from the opposite side of the street;
- whether the development delivers design excellence, including but not limited to building siting, scale, massing, articulation and materials;
- whether upper side and rear setbacks are sufficient to limit the impact on the amenity of existing dwellings;
- the shadowing impacts of the development on opposite footpaths, public spaces and the central median are minimised;
- whether proposed roof decks are set back from lower levels and are recessive in appearance;
- whether the development mitigates negative wind effects;
- the cumulative impact of development on traffic and parking in the nearby area, including on the functionality of laneways; and
- whether the layout and appearance of areas set aside for vehicular access, loading and unloading and the location of any proposed car parking is practicable, safe and supports a pedestrian-oriented design outcome.

Expiry

The requirements of this schedule cease to have effect 2 years after publication in the Government Gazette *(Note: Minister to insert date)*

Reference Documents

Brunswick and Smith Street Built Form Review – Background Analysis Report, 2019

Built Form Review: Victoria Parade – Heritage Analysis and Recommendations, 2020

Victoria Parade Precinct Review and Built Form Framework, 2020

Traffic Engineering Assessment – Brunswick Street and Smith Street Activity Centres - Extended Area, 2020

Design and Development Overlay Schedule 40 - Fitzroy West

1 Objectives

To ensure development responds to the mixed typology and heritage character in the streetscape by supporting:

- A mid-rise character (ranging from 3 to 8 storeys) in the mixed use precinct of Fitzroy West which ensures the varied but low heritage street wall remains the visually dominant element of the streetscape and upper level developments are recessive providing a clear visual distinction between lower street walls and upper level development; and
- A new mid-rise character (ranging from 3 to 7 storeys) behind a new street wall in the Commercial 2 Zone land which reflects the Alexandra Parade corner, Nicholson Street frontages and surrounding heritage influences.

To ensure the façade composition and articulation of development responds to:

- the prominent heritage character of mixed industrial and residential heritage buildings within the streetscape of Fitzroy West; and
- the boulevard character of Alexandra Parade, transitioning down to sensitive interfaces behind the pocket of Commercial 2 Zone land at the western junction of Alexandra Parade.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths and public spaces.

To ensure that development provides for equitable development outcomes through building separation and a design response that considers the development opportunities of neighbouring properties.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

2.0 Buildings and works

A permit is required to construct a building or construct or carry out works, except for:

- rear ground floor extensions no higher than 4 metres above natural ground level;
- an alteration to an existing building façade provided:
  - the alteration does not include the installation of an external roller shutter;
  - in a C1Z, at least 80 per cent of the building façade at ground floor level is maintained as an entry or window with clear glazing; and
  - in a MUZ, the alterations include and/or retain existing windows and pedestrian entry points and do not increase blank walls.
- construction of an awning to an existing building that projects over a road, if it is authorised by the relevant public land manager.

2.1 Definitions

Heritage building means any building subject to a Heritage Overlay and graded as either Contributory or Individually Significant, or any building on the Victorian Heritage Register.

Laneway means a road reserve of a public road 9 metres or less in width.

Parapet does not include features such as brackets, pediments, urns, finials or other decorative elements.

Public realm means all streets and spaces open to the public but does not include laneways.

Street wall means the façade of a building at the street boundary, or if the existing heritage building is set back from the street boundary, the front of the existing building.

Street wall height means the height of the street wall measured by the vertical distance between the footpath at the centre of the frontage and the highest point of the building, parapet, balustrade or eaves at the street edge; or in the case of a heritage building, if it is set back from the street from natural ground level at the centre of the building frontage to the highest point of the building, parapet, balustrade or eaves.

Upper level means development above the height of the street wall.

Upper level setback means the setback of the upper level measured from the street wall of the building.

2.2 General Requirements

A permit cannot be granted under this Design and Development Overlay to vary a requirement expressed with the term 'must'.

The requirements below apply to an application to construct a building or construct or carry out works.

2.3 Street Wall Height and Setback Requirements

Street wall heights should not exceed the heights specified in Map 1, as applicable and as stated below.

Infill development must match the parapet height of the adjacent heritage building to the width of the property boundary or 6m, whichever is the lesser.

If an immediately adjoining heritage building is set back from the street, then infill development should match the setback of the adjacent heritage building from the same street, excluding laneway frontages.

All other development should achieve a continuous street wall with no front setback to a street.

The street wall on corner buildings should continue the main frontage street wall height for a minimum of 8 metres to the side street, with a transition in height to match the rear interface where required.

Development of non-heritage buildings on street corners should provide a corner splay at minimum of 1 x 1 meter along the site's corner boundaries.

Development should retain the visual prominence of:

- the heritage street wall in the vistas along the street; and
- heritage fabric of the return façades of heritage buildings on corner sites.

2.4 Upper Level Setback Requirements

Upper levels above the primary street frontage:

- must be set back by a minimum of 6 metres for all heritage buildings, except for sites fronting Rose Street, Fitzroy Street, Spring Street (where north of Kerr Street) and Henry Street;
- should be setback by a minimum of 6m for non-contributory sites fronting Alexandra Parade, Argyle Street, Cecil Street, Kerr Street, Nicholson Street and Westgarth Street and corners at the intersections of Leicester and Fitzroy Streets, Argyle and Spring Streets and Argyle and Fitzroy Streets.
- should be setback by a minimum of 3m above the street frontage of Rose Street, Fitzroy Street, Spring Street (where north of Kerr Street) and Henry Street.

For development over 16.4 metres, the top most upper level above a heritage building should be set back a further 3.2 metres from the principal frontage

Upper levels above a side street wall of a heritage building on corner sites should be set back by 6 metres.

Upper levels above a side street wall should be set back by a minimum of 3 metres, unless specified otherwise.

Upper levels should:

- be visually recessive from main frontages and side streets to ensure development does not overwhelm the heritage streetscape and minimise upper level bulk;
- be set back from the street wall below to ensure that upper level additions as seen from the public realm do not detract from the character of the streetscape when viewed directly or obliquely along the street; and
- contain upper level setbacks above the street wall within a maximum of two steps (including the setback above the street wall below as one step) to avoid repetitive steps in the built form.

Projections such as building services and architectural features (other than shading devices, mouldings etc.), balconies and balustrades should not protrude into a setback.

For heritage buildings, upper level setbacks behind the street wall in excess of the minimum upper level setback should be provided where:

- it would facilitate the retention of a roof form and/or chimneys that are visible from the public realm, or a roof or any feature that the relevant statement of significance identifies as contributing to the significance of the heritage building or streetscape;

- it would maintain the perception of the three-dimensional form and depth of the building; and
- a lesser setback would detract from the character of the streetscape when viewed directly or obliquely along the street.

2.5 Overall Building Height Requirements

Development on sites shown as hatched on Map 1 must not exceed 11m (3 storeys). All other development should not exceed the heights shown on Map 1, as applicable.

A permit should only be granted to construct a building or carry out works which exceeds the building heights shown on Map 1 where each of the following requirements are met to the satisfaction of the responsible authority:

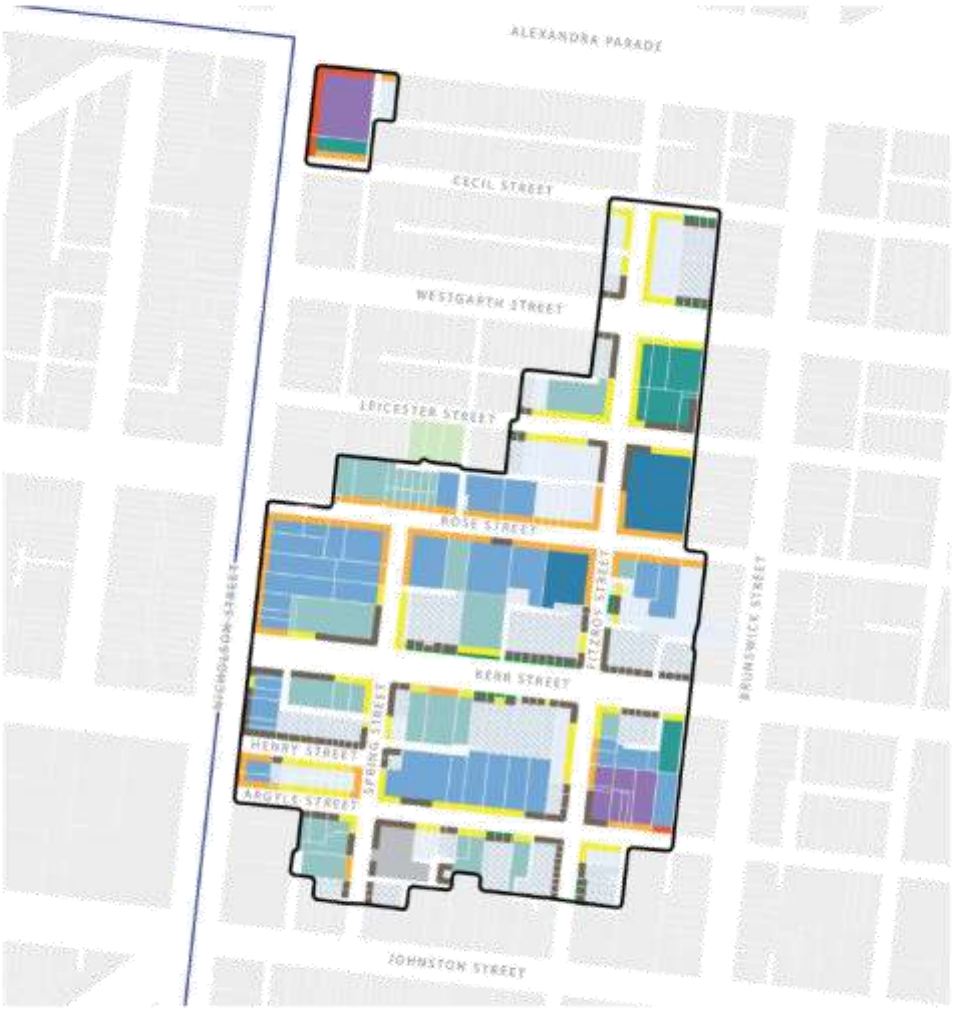
- the minimum common boundary and building separation requirements in this schedule are exceeded by at least 1 metre for levels above the height;
- accessibility provision that achieves the standards in Clauses 55.07 and 58.05 (as relevant)for a minimum of 70% of dwellings;
- communal open space provision that exceeds the minimum standards in Clauses 55.07 and 58.03 by a minimum of 20%;
- secluded private open space provision that exceeds the minimum standards in Clauses 55.07 and 58.05 by a minimum of 20% for each dwelling;
- excellence for environmentally sustainable design measured as a minimum BESS project score of 70%; and
- no additional overshadowing to secluded private open space of residentially zoned properties outside of the schedule and/or opposite footpath, kerb outstands etc. beyond that which would be generated by a proposal that complies with the maximum building height.

Architectural features may exceed the building height.

Service equipment and/or structures including balustrades, unenclosed pergolas for communal areas, shading devices, plant rooms, lift overruns, stair wells, structures associated with pedestrian access, green roof areas and other such equipment may exceed the height provided that:

- the equipment/structures do not cause additional overshadowing of private open space to residential land, opposite footpaths, kerb outstands etc.; and
- the equipment/structures are no higher than 2.6 metres above the proposed building height; and
- the equipment/structures occupy less than 50 per cent of the roof area (solar panels excepted).

Map 1: Street Wall Heights and Building Heights



Mandatory Building Heights

Victorian Terraces as marked by the dotted diagonal lines have a 11m/ 3 storey mandatory building height

Preferred Building Heights

- 11.2m/ 3 storeys
  12m/ 3 storeys*
- 14.4m/ 4 storeys
- 17.6m/ 5 storeys
  20m/ 5 storeys*
- 20.8m/ 6 storeys
- 24m/ 7 storeys
  28m/ 7 storeys*
- 27.2m/ 8 storeys
- Limited opportunity

Note: * for C2Z sites only.

Preferred Streetwall

- Retain heritage street-wall
- Retain landscape setback
- New 2 storey streetwall (8m)
- New 3 storey streetwall (11.2m)
  New 3 storey streetwall (12m)*
- New 4 storey streetwall (14.4m)
  New 4 storey streetwall (16m)*

2.6 Interface Requirements

Development on a rear boundary should not exceed the maximum heights in Table 1.

Table 1: Rear boundary wall heights

Adjoining Zone	Maximum rear boundary wall height
NRZ	8m – Whether or not separated by a laneway
GRZ	11.2m – Where there is an existing laneway 8m – Where there is no laneway
MUZ / C1Z / C2Z	11.2m – Whether or not separated by a laneway

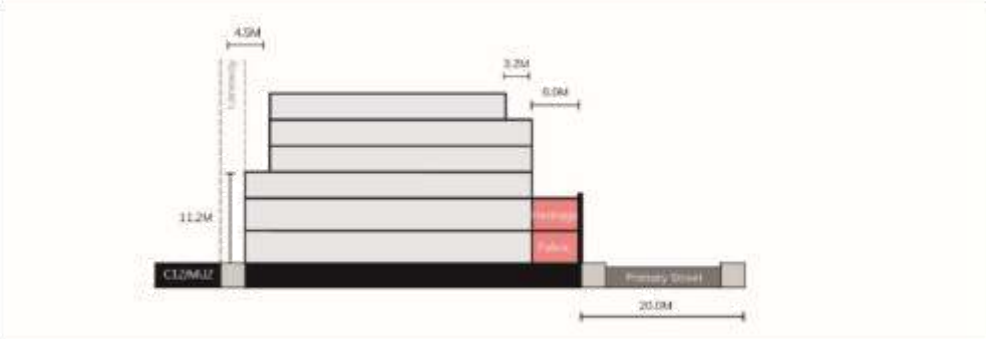
Upper levels above a rear boundary wall must be set back from the rear boundary and be contained within a 45 degree setback envelope. The envelope's angle is to be measured perpendicular to the adjoining residential site's boundary, taken from the centre of the boundary. This does not apply to a Commercial 1 Zone and/or Mixed Use Zone interface.

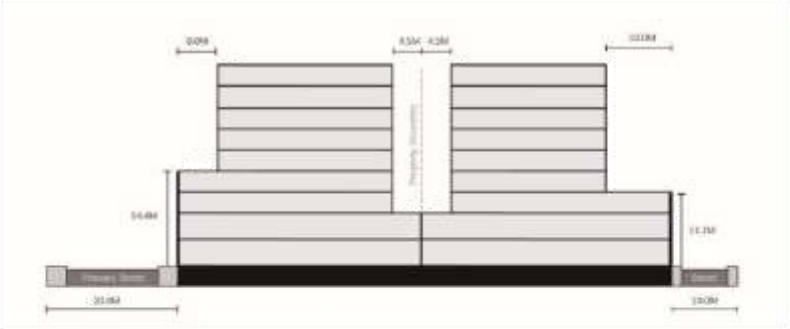
Upper level setbacks above a rear boundary wall should be contained within a maximum of two steps (including the setback above the boundary wall below as one step) to avoid repetitive stepping of individual levels.

Development should respond to existing secluded private open spaces by setting back at upper levels to create a sense of separation, minimise overshadowing and reduce building bulk.

Development should not visually dominate adjoining residential sites, including where separated by a laneway.

Figure 1: Indicative Cross Sections and Measurements





2.7 Overshadowing

Development should meet the objective of Clause 55.04-5 Overshadowing for adjoining land within the Mixed Use Zone, including where separated by a laneway.

New development must not overshadow:

- the opposite footpath of Cecil Street (3m from property frontage, including the street) between 10am and 2pm at 22 September;
- the southern footpath of Westgarth Street and Kerr Street (3m from property boundary, including the street) at 10am on 22 September; and
- any opposite kerb outstands, seating and/or planting areas (as applicable), between 10am and 2pm at 22 September.

New development on all other streets should not overshadow opposite buildings from the first floor upwards between 10am and 2pm on 22 September.

2.8 Building Separation Requirements

Where development shares a common boundary within the overlay and/or adjoins a Commercial 1 Zone, Commercial 2 Zone and/or Mixed Use Zone outside of the overlay, upper level development should:

- be set back a minimum of 4.5m from the common side boundary, where a habitable window or balcony facing the common boundary is proposed or exists on the adjacent property; and
- be set back a minimum of 3.0m from the common side boundary where a commercial or non-habitable window facing the common boundary is proposed or exists on the adjacent property (including the Commercial 2 Zone).

Where the common boundary is a laneway, the setback is measured from the centre of the laneway.

Where development consists of multiple buildings and/or separate upper levels, upper level development should:

- be set back a minimum of 9m from each other, where a habitable window or balcony is proposed; and
- be set back a minimum of 6m from each other where a commercial or non-habitable window is proposed.

2.9 Building Layout Requirements

Internal layout of commercial and residential units should show how they can be adapted over time, including demonstrating how commercial and residential units can be combined or divided without major structural remedial works.

Ensure shop front widths are not reduced to the extent they become commercially unviable.

Buildings in the Commercial 1 and/or Mixed Use Zone should:

- be designed to accommodate commercial activity at the ground floor level; and
- incorporate floor to floor heights suitable for commercial activity of at least 4 metres at ground floor level, where heritage elements are not a constraint.

2.10 Façade Design Requirements

Development should achieve active frontage design at ground level to create a pedestrian-oriented environment and passive surveillance towards the public realm.

Development façades should:

- relate to the vertical and horizontal proportions of either:
    - the mixed historic industrial warehouse and/or residential character of Fitzroy West, as applicable; or
    - the existing, varied commercial character for the Commercial 2 Zone land fronting Nicholson Street and at the western junction of Alexandra Parade, as appropriate.
- create a suitable ratio of solid and void elements;
- create visual interest through the arrangement of fenestration, balconies and the application of architectural features such as external shading devices, window sills etc.;
- avoid overly busy façades that rely on a multitude of materials and colours;
- maintain existing openings and the inter-floor height of a heritage building and avoid new floor plates and walls cutting through historic openings;
- avoid highly reflective glazing in openings of heritage buildings;
- encourage the retention of solid built form behind retained heritage façades and avoid balconies behind existing openings;
- be simple and not compete with the more elaborate detailing of the heritage building(s) on the subject site or an adjoining site;
- avoid large expanses of glazing with a horizontal emphasis, except to ground floor shopfronts and former industrial buildings; and
- ensure projections such as balconies, building services, architectural features (other than shading devices, mouldings etc.) do not intrude into a setback and not dominate the façade.

Building services and service cabinets should be located away from the primary street frontage and should be designed and located so they complement the street frontage and character and appearance of the building.

Development should avoid blank walls visible to the public realm, including on side street frontages.

Blank side walls in a mid-block location which are visible permanently or temporarily from adjoining residential sites and/or the public realm should be designed to provide visual interest to passing pedestrians through colour, texture or finishes.

2.11 Access, Parking and Loading Areas Requirements

Pedestrian access to buildings should be achieved via streets and avoid primary access from laneways. Where pedestrian access from a laneway is appropriate, it should include a pedestrian refuge or landing.

Ensure pedestrian entrances are clearly visible, secure and have an identifiable sense of address.

Residential and commercial pedestrian entrances should be distinguishable from each other.

The common pedestrian areas of new buildings should be designed with legible and convenient access, with hallway and lobby areas of a size that reflects the quantity of apartments serviced and which can be naturally lit and ventilated.

Resident and staff bicycle parking should be located and designed to be secure and conveniently accessible from the street and associated uses.

Vehicle access should be achieved from laneways or side streets (in that order of preference).

At the intersection of laneways and footpaths, development to non-heritage buildings should provide a minimum 1 x 1 metre splay to ensure pedestrian safety.

Car parking should be located within a basement or concealed from the public realm.

Vehicle ingress and egress into development, including loading facilities and building servicing, should be designed to ensure a high standard of pedestrian amenity and limit potential conflict between vehicle movements and pedestrian activity.

Development with redundant vehicle access points should reinstate the kerb, line-marked parking bays, and relocate any parking signs.

Development with laneway access may require a ground level set back in order to achieve practicable vehicle access. Between ground level and first floor, a headroom clearance of 3.5 meters minimum should be achieved.

Properties on the inside corner of bends in laneways or at intersections between two laneways should provide a minimum 3m x 3m splay to facilitate vehicle access.

3.0 Subdivision

None specified.

4.0 Advertising

None specified.

5.0 Application Requirements

The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- a site analysis and urban design context report which demonstrates how the proposal achieves the Design Objectives and requirements of this schedule;
- for development proposals for buildings over 20 metres in height should be accompanied by a wind study analysis to assess the impact of wind on the safety and comfort of the pedestrian environment on footpaths and other public spaces while walking, sitting and standing; and
- a Traffic Engineering Report prepared by a suitably qualified traffic engineer that demonstrates how the development:

- minimises impacts on the level of service, safety and amenity of the arterial road network (including tram services);
- reduces car dependence and promotes sustainable transport modes; and
- which includes an assessment of the impacts of traffic and parking in the Precinct including an assessment of the ongoing functionality of laneway/s, where applicable.

6.0 Decision Guidelines

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- whether the requirements in Clauses 2.2 to 2.11 are met;
- whether the design of the streetscape interface makes a positive contribution to an active, pedestrian-oriented street environment and/or public realm;
- whether the design of development in the Fitzroy West precinct retains a mixed use heritage industrial and/or residential character;
- whether the design of development fronting Nicholson Street and Alexandra Parade achieves a fine grain commercial character;
- whether development retains the prominence of the heritage street wall in the vistas along the primary street frontage within the precinct;
- whether heritage buildings on street corners retain their prominence when viewed from the opposite side of the primary and secondary street;
- whether heritage buildings retain their three-dimensional form as viewed from the public realm, including the opposite side of the street;
- whether upper level development above the heritage street wall is visually recessive and does not dominate or visually overwhelm the heritage buildings;
- whether a strong sense of separation between upper levels and street walls is achieved when viewed from the opposite side of the street;
- whether the development delivers design excellence, including but not limited to building siting, scale, massing, articulation and materials;
- whether upper side and rear setbacks are sufficient to limit the impact on the amenity of existing dwellings;
- the shadowing impacts of the development on opposite footpaths and public spaces are minimised;
- whether proposed roof decks are set back from lower levels and are recessive in appearance;
- whether the development mitigates negative wind effects;
- the cumulative impact of development on traffic and parking in the nearby area, including on the functionality of laneways; and
- whether the layout and appearance of areas set aside for vehicular access, loading and unloading and the location of any proposed car parking is practicable, safe and supports a pedestrian-oriented design outcome.

Expiry

The requirements of this schedule cease to have effect 2 years after publication in the Government Gazette *(Note: Minister to insert date)*

Reference Documents

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Traffic Engineering Assessment – Brunswick Street and Smith Street Activity Centres - Extended Area, 2020

Planning and Environment Act 1987

YARRA PLANNING SCHEME

AMENDMENT C288YARA

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Minister for Planning who is the planning authority for this amendment. The Amendment has been made at the request of Yarra City Council.

Land affected by the Amendment

The Amendment applies to the land as shown in Figure 1 below. The Amendment generally affects the land in a Mixed Use Zone, Commercial 1 Zone and Commercial 2 Zone with: a primary frontage to Alexandra Parade between George Street in the west and Hoddle Street in the east; the northern side of Victoria Parade between Napier Street to the west and Hoddle Street to the east; and land subject to the Mixed Use Zone and Commercial 2 Zone between Nicholson Street in the west and to the rear of lots to Brunswick Street in the east and north south between the rear lots of Johnston Street and properties with a frontage to Alexandra Parade at the corner of Nicholson Street.

Figure 1: Proposed DDO areas along Alexandra Parade, Victoria Parade and the Fitzroy West Mixed Use Zone area

What the amendment does

The Amendment C288yara proposes to introduce built form controls to the land on an interim basis of 2 years (from gazettal) by making the following changes to the Yarra Planning Scheme:

- Apply and Insert Design and Development Overlay Schedule 38 (DDO38) to Alexandra Parade;
- Apply and Insert Design and Development Overlay Schedule 39 (DDO39) to Victoria Parade;
- Apply and Insert Design and Development Overlay Schedule 40 (DDO40) to the Fitzroy West Mixed Use Zone area;

Strategic assessment of the Amendment

Why is the Amendment required?

The scale and density of development approved and currently being proposed along the Fitzroy and Collingwood Activity Centres and corridors has increased substantially in recent years. Many current proposals in the area exceed the scale of development envisaged by the current planning scheme provisions in the area.

To ensure appropriate and orderly planning, the Yarra Planning Scheme needs to be urgently revised to better facilitate and guide the scale, massing and bulk of new development. This Amendment (C288yara) represents Stage 2 of built form controls for the Fitzroy and Collingwood Activity Centres and corridors. Stage 1 of the work sought interim controls for Brunswick, Smith, Johnston and Gertrude Streets and Mixed Use Zone areas behind those corridors and in Fitzroy East. Stage 1 (Amendment C270yara) is currently being considered for approval by the Minister for Planning.

Diversity and variation of the heritage building stock is an inherent characteristic of the Fitzroy and Collingwood area. Built form guidance is urgently needed to ensure future development responds appropriately to these unique characteristics and to achieve an appropriate balance between the existing character and potential development.

The current provisions do not provide sufficient guidance to ensure development appropriately considers the impacts on the heritage qualities and diversity of built form within the Fitzroy – Collingwood Activity Centres and corridors. Nor do the provisions provide sufficient guidance to safeguard appropriate amenity for current and future residents in the area. Interim DDOs will assist in protecting against inappropriate development and significant heritage character of Alexandra Parade, Victoria Parade and Fitzroy West whilst the normal amendment process progresses.

The interim controls provide design objectives and requirements which seek to improve the quality of development in Alexandra Parade, Victoria Parade and Fitzroy West. Building height and setback requirements (a mix of discretionary and mandatory) seek to achieve development that respects residential heritage and neighbourhood character.

The interim controls are required to ensure that each precinct is protected in the short term and that planning controls provide certainty to the Yarra community while further work is undertaken. A lack of existing built form controls can result in inappropriate built form outcomes.

The exemption from public notice and prompt approval of this Amendment and the interim controls will enable the protection of Alexandra Parade, Victoria Parade and Fitzroy West from inappropriate development in the short-term until the permanent controls are implemented.

How does the Amendment implement the objectives of planning in Victoria?

The amendment implements the following objectives of planning in Victoria (sections 4(1) and 12(1)(a) of the Act):

To provide for the fair, orderly, economic and sustainable use, and development of land.

To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.

To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.

To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.

To balance the present and future interests of all Victorians.

The amendment seeks to provide greater clarity regarding built form outcomes and expectations in Fitzroy and parts of Collingwood. In doing so, the proposed provisions will support more efficient and orderly planning processes. The application of interim controls will ensure that Council and the community's vision for Yarra's activity centres and corridors are not undermined by inappropriate developments, while permanent controls are implemented. The views of all affected parties will be sought through planning scheme amendment process to implement permanent controls.

The amendment implements provisions that support the protection of heritage and neighbourhood character in the activity centres, in both commercial and residential areas. The amendment seeks to provide greater clarity as to whether growth or heritage values should drive development outcomes.

How does the Amendment address any environmental, social and economic effects?

The Amendment is consistent with the overarching goal in the planning scheme to:

> *Integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.*

The Amendment will have positive social and economic benefits through the facilitation of well-designed buildings accommodating housing above commercial activity situated in an activity centre that is well served by public transport and other services.

Does the Amendment address relevant bushfire risk?

The amendment does not address bushfire risk, as the land subject to the amendment is not:

- Subject to a Bushfire Management Overlay;
- Within a designated bushfire prone area;
- Proposed to be used or developed in a way that may create a bushfire hazard.

Does the Amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The Amendment complies with Ministerial Direction No. 9 in addressing and responding to the metropolitan planning strategy, *Plan Melbourne 2017-2050*.

The Amendment complies with the Direction on the form and content of planning schemes.

Amendment C288yara is consistent with the following Directions contained in *Plan Melbourne 2017-2050*:

> **Direction 1.1 - Create a city structure that strengthens Melbourne's competitiveness for jobs and investment** which seeks to strengthen the competitiveness of Melbourne's employment areas. The Amendment provides appropriate policy direction for the planning and development of the Activity Centre to ensure that the activity centre continues to meet community needs.
>
> **Direction 5.1 - Create a city of 20-minute neighbourhoods** which aims to cluster new housing in activity centres and other places that offer good access to jobs, services and public transport and includes policy for local governments to prepare structure plans for activity centres to accommodate growth. The amendment will facilitate renewal of the Major Activity Centre which will improve local employment, housing and commercial opportunities.

How does the Amendment support or implement the Planning Policy Framework and any adopted State policy?

The Amendment supports and implements State Planning Policy in responding to the following clauses:

Clause 11 - Settlement

- **Clause 11.02-1S Supply of Urban Land** – To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

- **Clause 11.02-2S Structure Planning** - To facilitate the orderly development of urban areas.
- **Clause 11.03-1S Activity Centres** - To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.

Clause 13 – Environmental risks and amenity

- **Clause 13.01-1S Natural Hazards and Climate Change** - To minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning.
- **Clause 13.04-1S Contaminated and Potentially Contaminated Land** - To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.
- **Clause 13.05-1S Noise Abatement** - To assist the control of noise effects on sensitive land uses.

Clause 15.01 – Built environment

- **Clause 15.01-1S Urban Design** - To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
- **Clause 15.01-1R Urban Design – Metropolitan Melbourne** - To create a distinctive and liveable city with quality design and amenity
- **Clause 15.01-2S Building Design** - To achieve building design outcomes that contribute positively to the local context and enhance the public realm.
- **Clause 15.01-4S Healthy Neighbourhood** - To achieve neighbourhoods that foster healthy and active living and community wellbeing.
- **Clause 15.01-4R Healthy Neighbourhood – Metropolitan Melbourne** - Create a city of 20 minute neighbourhoods that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.
- **Clause 15.01-5S Neighbourhood Character** - To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

Clause 15.02 – Sustainable development

- **Clause 15.02-1S Energy and Resource Efficiency** - To encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.

Clause 15.03 - Heritage

- **Clause 15.03-1S Heritage Conservation** - To ensure the conservation of places of heritage significance.

Clause 16.01 – Residential Development

- **Clause 16.01-1S Integrated Housing** – To promote a housing market that meets community needs.
- **Clause 16.01-2S Location of Residential Development** - To locate new housing in designated locations that offer good access to jobs, services and transport.
- **Clause 16.01-3S Housing Diversity** - To provide for a range of housing types to meet diverse needs.
- **Clause 16.01-3R Housing Diversity – Metropolitan Melbourne** – Create mixed-use neighbourhoods at varying densities that offer more choice in housing.
- **Clause 16.01-4S Housing Affordability** - To deliver more affordable housing closer to jobs, transport and services.

Clause 17.01 Employment

- **Clause 17.01-1S Diversified Economy** - To strengthen and diversify the economy.
- **Clause 17.01-1R Diversified Economy – Metropolitan Melbourne** - Support the Central City to become Australia's largest commercial and residential centre by 2050, by planning for office, retail, residential, education, health, entertainment and cultural activity spaces.

Clause 17.02 Commercial

- **Clause 17.02-1S Business** - To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.
- **Clause 17.02-2S Out-of-centre development** - To manage out-of-centre development.

Clause 17.03 Industry

- **Clause 17.03-1S Industrial Land Supply** - To ensure availability of land for industry.
- **Clause 17.03-2S Industrial Development Siting** - To facilitate the sustainable development and operation of industry.
- **Clause 17.03-3S State Significant Industrial Land** - To protect industrial land of state significance.

Clause 18 - Transport

- **Clause 18.01-2S Transport System -** To coordinate development of all transport modes to provide a comprehensive transport system.
- **Clause 18.02-1S Sustainable Personal Transport -** To promote the use of sustainable personal transport.
- **Clause 18.02-1R Sustainable Personal Transport – Metropolitan Melbourne -** Improve local travel options for walking and cycling to support 20 minute neighbourhoods.
- **Clause 18.02-2S Public Transport -** To facilitate greater use of public transport and promote increased development close to high-quality public transport routes.
- **Clause 18.02-2R Principal Public Transport Network –** Facilitate high-quality public transport access to job-rich areas.

Clause 19.02 – Community infrastructure

- **Clause 19.02-4S Social and Cultural Infrastructure** - To provide fairer distribution of and access to, social and cultural infrastructure.
- **Clause 19.02-6S Open Space -** To establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community.
- **Clause 19.02-6S Open Space – Metropolitan Melbourne -** To strengthen the integrated metropolitan open space network.

The amendment also supports the Plan Melbourne Policy 2.1.4, 'Provide certainty about the scale of growth in the suburbs', by providing interim built form provisions to provide greater certainty while permanent provisions undergo the full planning scheme amendment process.

How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The Amendment is consistent with and facilitates the following Clauses of the Local Planning Policy Framework:

Clause 21.04-1 - Accommodation and Housing

- Objective 1 - To accommodate forecast increases in population.
- Strategy 1.2 Direct higher density residential development to Strategic Redevelopment Sites identified at clause 21.08 and other sites identified through any structure plans or urban design frameworks.

Clause 21.04-2 - Activity centres

- Objective 4 - To maintain a balance between local convenience and regional retail roles in Yarra's activity centres.
  - Strategy 4.1 Increase the range of retail, personal and business services, community facilities, and recreation activities, within individual centres.
  - Strategy 4.3 Support the role of all activity centres, including Neighbourhood Activity Centres, in providing local day-to-day needs of residents of all abilities.
- Objective 5 - To maintain the long term viability of activity centres.
  - Strategy 5.2 Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.
  - Strategy 5.3 Discourage uses at street level in activity centres which create dead frontages during the day.
  - Strategy 5.4 Permit residential development that does not compromise the business function of activity centres.
- Objective 7 - To encourage the arts and arts venues.
  - Strategy 7.1 Support a diversity of arts uses such as live music venues, performance spaces, galleries and artist studios in appropriate and accessible locations.

Clause 21.04-3 – Industry, Office and Commercial

- Objective 8 - To increase the number and diversity of local employment opportunities.
  - Strategy 8.3 Encourage residential and business land use within the Mixed Use Zone to locate on the same site.
  - Strategy 8.5 Support opportunities for new uses on isolated industrial sites provided they reflect the predominant surrounding uses.

Clause 21.05-1 - Heritage

- Objective 14 - To protect and enhance Yarra's heritage places.
  - Strategy 14.1 Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.
  - Strategy 14.2 Support the restoration of heritage places.

- Strategy 14.3 Protect the heritage skyline of heritage precincts.
- Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.

Clause 21.05-2 - Urban design

- Objective 16 - To reinforce the existing urban framework of Yarra.
- Strategy 16.2 Maintain and strengthen the preferred character of each Built Form Character Type within Yarra.
- Objective 19 - To create an inner city environment with landscaped beauty.
- Strategy 19.1 Require well resolved landscape plans for all new development.
- Strategy 19.2 Encourage opportunities for planting suitable trees and landscape areas in new development.
- Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric.
- Strategy 20.1 Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.
- Objective 21 - To enhance the built form character of Yarra's activity centres.
- Strategy 21.1 Require development within Yarra's activity centres to respect and not dominate existing built form.
- Strategy 21.2 Require new development within an activity centre to consider the context of the whole centre recognising that activity centres may consist of sub-precincts, each of which may have a different land use and built form character.
- Strategy 21.3 Support new development that contributes to the consolidation and viability of existing activity centres.

Does the Amendment make proper use of the Victoria Planning Provisions?

The Amendment makes suitable use of the Victoria Planning Provisions (VPP) through the selection of appropriate tools to achieve guidance for future land use and development outcomes for the precinct.

The amendment also addresses the requirements of Planning Practice Note 29: Ministerial Powers of intervention in Planning and Heritage matters, November 2004. The Practice Note states that the Minister would intervene where the matter will be the introduction of an interim provision or requirement and substantially the same provision or requirement is also subject to a separate process of review (such as the introduction of permanent controls in a planning scheme).

How does the Amendment address the views of any relevant agency?

Council sought the views of the Department of Environment, Land, Water and Planning (DELWP) in the drafting of the interim controls and built form review which informs the Amendment.

Further views of relevant agencies will be sought during exhibition of the Amendment for permanent controls following the resolution from Council in February 2021.

Does the Amendment address relevant requirements of the Transport Integration Act 2010?

The Amendment is consistent with the requirements of the *Transport Integration Act 2010* and will facilitate development outcomes that promote the principles of transit oriented development.

Particular consideration has been given to ensure that vehicular movements do not impact on the Principal Public Transport Network.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The Amendment will have some impact on the general operation of Council's statutory planning department as it will facilitate some new forms of development and land use.

The application of planning controls is considered to provide a more consistent assessment of planning permit applications. This is considered to reduce costs by providing more certainty for decision making.

Where you may inspect this Amendment

The Amendment is available for public inspection, free of charge, during office hours at the following places:

Planning Counter Richmond Town Hall 333 Bridge Road Richmond VIC 3121	Information Counter Collingwood Town Hall 140 Hoddle Street Abbotsford VIC 3067

Yarra City Council web-site - Amendment C288yara: www.yarracity.vic.gov.au/amendmentC288

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection.

Planning and Environment Act 1987

YARRA PLANNING SCHEME

AMENDMENT C288

INSTRUCTION SHEET

The planning authority for this amendment is the Yarra City Council.

The Yarra Planning Scheme is amended as follows:

Planning Scheme Maps

The Planning Scheme Maps are amended by a total of 4 attached maps sheets.

Overlay Maps

1. Amend Planning Scheme Map Nos. 1DDO, 2DDO, 5DDO, 6DDO in the manner shown on the 4 attached maps marked "Yarra Planning Scheme, Amendment C288".

Planning Scheme Ordinance

The Planning Scheme Ordinance is amended as follows:

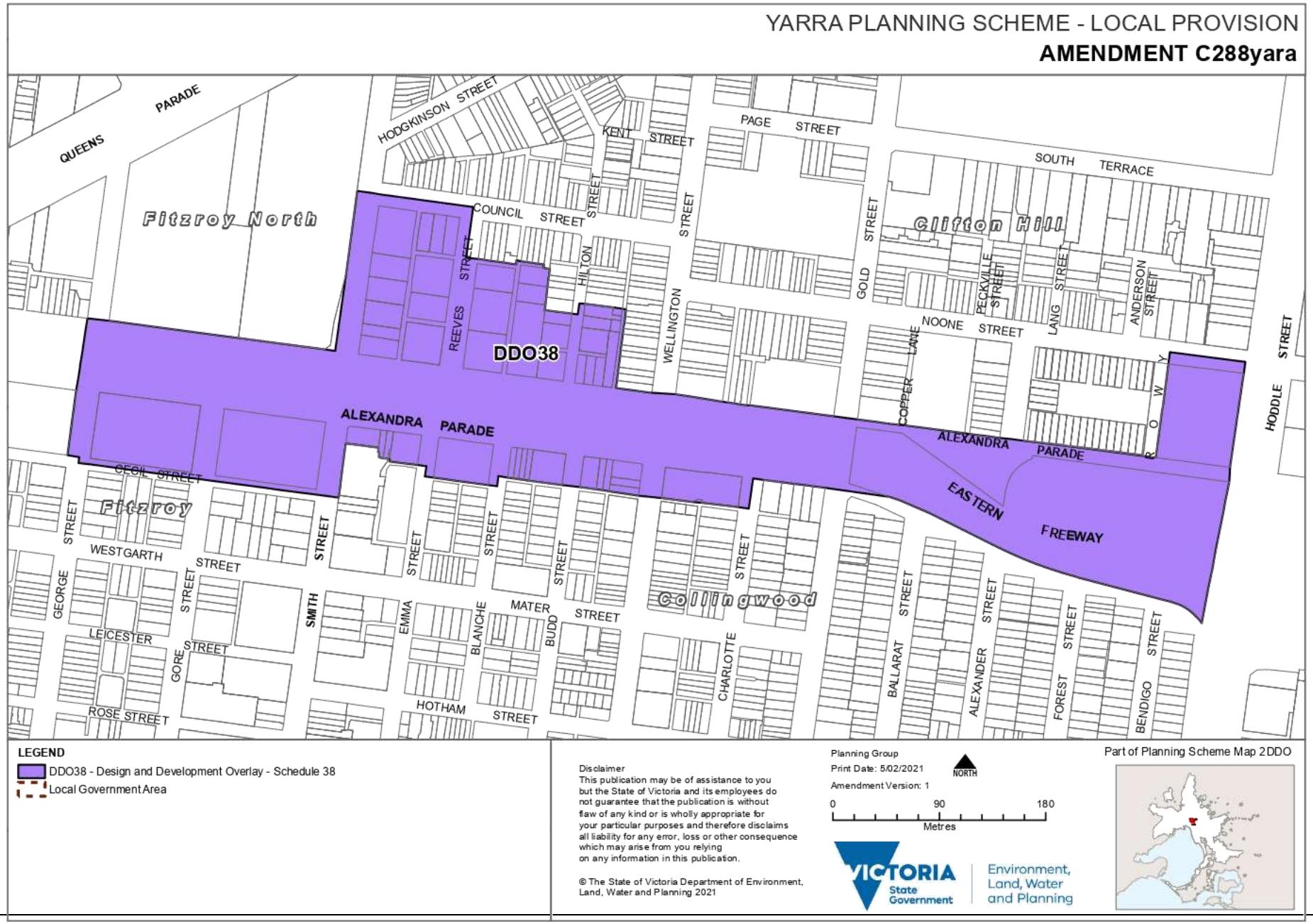
2. In **Overlays** – Clause 43.02, insert a new Schedule 38 in the form of the attached document.

3. In **Overlays** – Clause 43.02, insert a new Schedule 39 in the form of the attached document.

4. In **Overlays** – Clause 43.02, insert a new Schedule 40 in the form of the attached document.

End of document

Attachment 9 - Attachment 9 - Statutory Documentation Final



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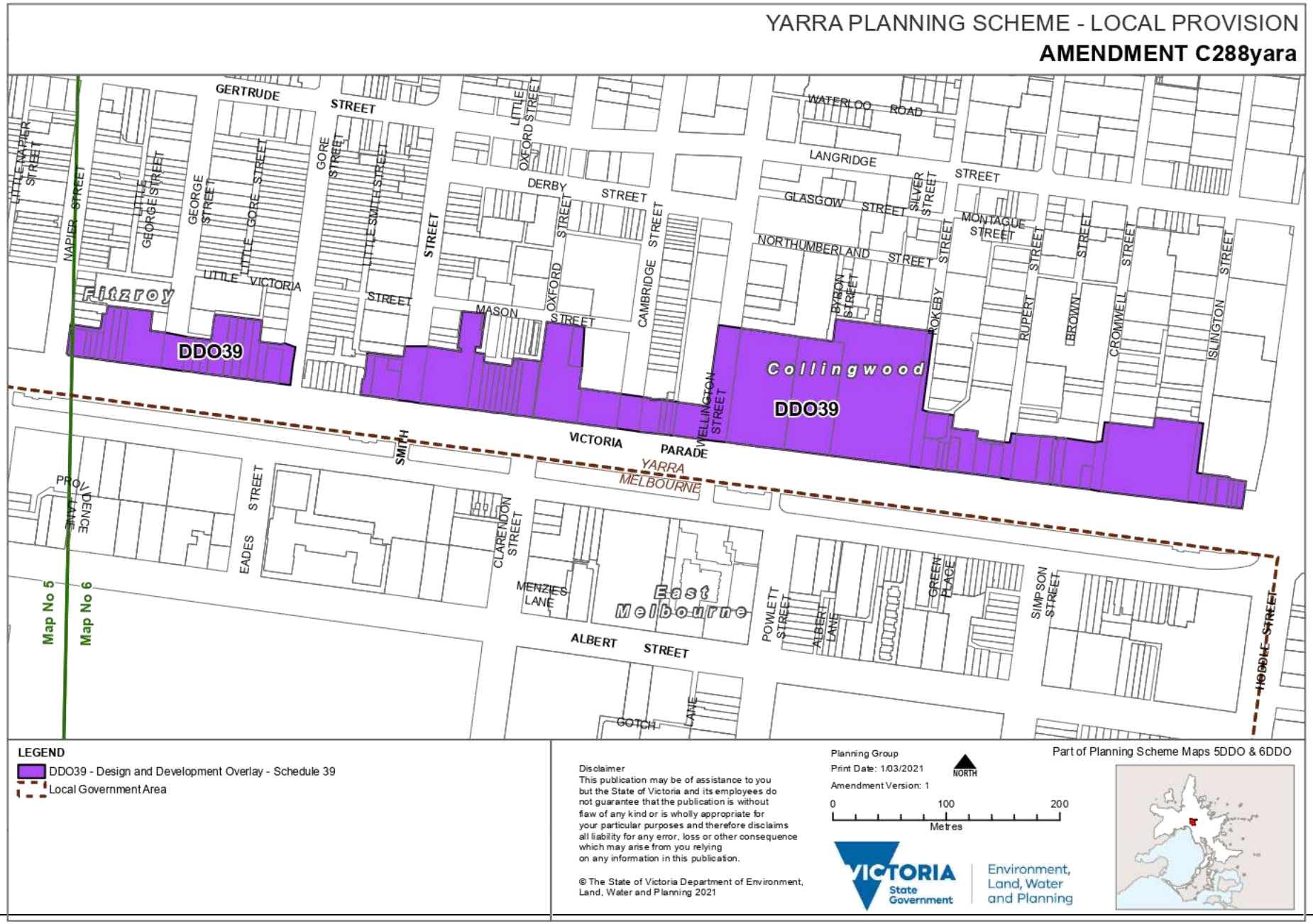


Attachment 9 - Attachment 9 - Statutory Documentation Final

8.2 Collingwood Town Hall Precinct Redevelopment Study

Executive Summary

Purpose

To report on the work that has been completed in response to the direction in the 2019–20 budget to undertake a feasibility study examining the potential to develop social and affordable housing options in the Collingwood Town Hall Precinct and a further Motion to consider community infrastructure outcomes.

To receive direction from Council as to whether it wishes to take the next steps and pursue the redevelopment of the northern end of the Collingwood Town Hall Precinct, and if so, on what terms.

Key Issues

Council owns significant strategic land holdings in and around the Collingwood Town Hall Precinct. The precinct is well located to major transport infrastructure and includes a number of Council-owned properties that are either not utilised, underutilised or currently providing community services in buildings that are not fit-for-purpose.

In 2020, a feasibility study examining the potential for a mixed-use development in the northern part of the precinct was undertaken. The study has given Council an understanding of the potential of the sites to provide for the social needs of its community, including a community facility and social and affordable housing, while achieving some economic sustainability. The study has been an iterative process testing basic built form options and land use mixes to balance public benefits against development costs.

Financial Implications

Several scenarios have been explored with different financial impacts. An underlying premise in exploring this site has been to seek an outcome that would be financially viable with Council's contribution being in the form of a land-gift or long-term lease, i.e. without Council contributing capital investment. The study has found that it will be hard to design a proposal that delivers both community infrastructure and a significant proportion of social housing without a significant government subsidy.

Since beginning this study the social housing funding environment has changed drastically in response to the Victorian Government's $5.3 billion Big Housing Build, announced in November 2020. Under this scheme, the state government is funding the construction of 12,000 new social and affordable properties across Victoria over four years.

This is likely to increase the ability of community housing providers to undertake projects, such as the one explored below. It could also potentially increase the number of social housing units that could viably be included in the proposal.

Commercial property valuations of the Council-owned sites suggest that Council holds assets to the value of about $7.5 million on the corner of Vere and Hoddle Streets.

PROPOSAL

1. That Council notes:
   (a) the completion of the feasibility study in response to the direction within the 2019–20 budget to undertake a feasibility study examining the potential to develop social and affordable housing options in the Collingwood Town Hall Precinct and the further Council motion from August 2019 to expand the feasibility study to include previously considered community uses, and that this work included:
      (i) Planning, urban design, massing and economic feasibility;
      (ii) Community infrastructure costs and concepts;
      (iii) Stakeholder engagement (including with potential joint-venture partners);
      (iv) Commercial property valuations of council-owned land/buildings.
   (b) the redevelopment of the northern end of the Collingwood Town Hall Precinct has been investigated on multiple occasions over the past ten years, including delivering social and affordable housing, arts and other community outcomes (considered in 2013–14), and the option of the Victorian RSL assuming responsibility for the restoration and reactivation of the Sailors and Soldiers Hall (considered in 2018);
   (c) the many challenges evident in redeveloping the northern end of the Collingwood Town Hall Precinct, including:
      (i) the deteriorating and underutilised Council-owned assets of Sailors and Soldiers Memorial Hall and the nineteenth century factories at 117–123 Vere Street;
      (ii) the many and varied property owners and complicating infrastructure within and around the study area; and
      (iii) the scale, land area and partners needed to achieve a financially viable mixed-use outcome at the site – with Council's main contribution being the land – which delivers a high proportion of social housing, alongside fit-for-purpose community infrastructure, with resulting improvements to the urban realm.
2. That Council thanks the Victorian Government for their contribution to the project, and thanks industry stakeholders for their time and thoughtful contribution to the stakeholder engagement exercise.
3. That with respect to the northern end of the Collingwood Town Hall Precinct, Council determines from one or more of the following options, and instructs officers to progress with further work including:
   (a) Continue to seek an outcome that delivers a mixed-use development, as explored through the feasibility work, that includes residential dwellings (with a minimum of 50% of dwellings allocated to social and affordable housing with the balance market housing); has no less than 1,000m^2 for a community hub (including contemporary library spaces, flexible arts and community rooms and consulting suites); and necessitates the acquisition of additional assets and a continued partnership with the Victorian Government, noting that additional land acquisitions will be required; or
   (b) Commence the necessary work to facilitate the development of social and affordable housing through already Council-owned assets, such as specifically the leasing of the council-owned warehouse sites at 117–123 Vere Street to a Registered Housing Agency (RHA), with the refurbishment of the Sailors and Soldiers Hall not included; or

(c) Commence the necessary work to develop a new community hub in the precinct, based around, and including the refurbishment of the Sailors and Soldiers Memorial Hall on Hoddle Street, with the development of social and affordable housing not included, noting that Council would need to find additional resources for further feasibility and a source of funding for any potential community infrastructure project; or

(d) Commence the necessary work to develop a new community hub in the precinct, based around, and including the refurbishment of the Sailors and Soldiers Memorial Hall on Hoddle Street, as well as facilitating the development of limited social and affordable housing through the leasing of the council-owned warehouse sites at 117–123 Vere Street to a Registered Housing Agency (RHA), noting that Council would need to find a source of funding for the community infrastructure project; or

(e) Instigate the process to potentially sell the underutilised Council assets such as 117–123 Vere Street and Sailors and Soldier at 152A Hoddle Street; or

(f) Leave the site as is.

4. That Council directs officers to produce a consultation and engagement strategy for the preferred option and report back to Council to seek endorsement for the strategy and approval to consult the community.

8.2 Collingwood Town Hall Precinct Redevelopment Study

Reference	D21/14760
Author	Tess Simson - Senior Policy Advisor
Authoriser	Manager Social Strategy and Community Development

Purpose

1. To report on the work that has been completed in response to direction in the 2019–20 budget to undertake a feasibility study examining the potential to develop social and affordable housing options in the Collingwood Town Hall Precinct. A further Council motion from August 2019 to expand the feasibility study to include previously considered community uses is also addressed.
2. To receive direction from Council as to whether it wishes to take the next steps and pursue the redevelopment of the northern end of the Collingwood Town Hall Precinct, and if so, on what terms.

Critical analysis

History and background

3. This report looks at the feasibility work that has been done to investigate options for redeveloping the northern part of the Collingwood Town Hall (CTH) Precinct, including the Council buildings at 152A Hoddle Street (Sailors and Soldiers Memorial Hall) and warehouses at 117–123 Vere Street, as well as considering additional assets in the area.
4. The City of Collingwood purchased the Vere Street warehouses in the 1960s with the original intention of delivering offices for the organisation. One of the warehouses is now used by the Yarra Sculpture Gallery and the other functions as Council storage. The warehouses are underutilised and offer limited return to the community.
5. The Sailors and Soldiers Hall was originally constructed in the 1920s and was formerly the Collingwood RSL Hall. This heritage building is in a deteriorated state and currently unusable.
6. Opportunities for redevelopment of the site have been investigated on multiple occasions over the last 10 years. Several projects have considered delivering community outcomes for the site, including social housing, arts and other community facilities (2013–14), and the RSL assuming responsibility for the restoration and reactivation of the Sailors and Soldiers Hall (2018).
7. None of these projects has eventuated and the buildings on the corner of Hoddle and Vere Streets remain underutilised, slipping further into decline as useful assets, and posing some forthcoming liability.
8. As part of the 2019–20 Budget, $100,000 was allocated to deliver a feasibility study that examines the potential for developing social and affordable housing options in the Collingwood Town Hall Precinct.
9. A subsequent motion on 13 August 2019 requested that officers provide advice and options on expanding the feasibility study to include, in addition to social and affordable housing:
    (a) previously considered community uses: community meeting spaces and hot desks, a performance/exhibition space, arts spaces, affordable housing for artists; and

(b) use of 150–152 Hoddle St as the Collingwood Library and/or a Maternal and Child Health Centre.

10. In early 2020, Councillors were engaged on the parameters for the project, identifying key outcomes and functions, and considering potential delivery models.

11. Subsequently officers were directed to commission a feasibility study examining a mixed-use development in the northern part of the Collingwood Town Hall Precinct. Officers were also directed to receive a co-contribution of up to $100,000 from the Victorian Government to conduct the study and work with representatives from the Department of Health and Human Services (DHHS) on the delivery of this study (with DHHS in an advisory role).

12. The following studies have been completed in the past 15 months in response to the 2019–20 budget allocation and further Council resolutions:

    (a) A feasibility study incorporating:

        (i) planning, urban design, massing and economic feasibility;

        (ii) community infrastructure costs and concepts;

    (b) Stakeholder engagement (with private developers, community housing providers and DHHS); and

    (c) Commercial property valuations of council-owned land/buildings.

<u>The feasibility study</u>

13. The feasibility study was underpinned by the following assumptions:

    (a) Council recognises that it holds assets that are underutilised within the Collingwood Town Hall Precinct and is committed to investigating redevelopment of the precinct;

    (b) Existing community functions are to be retained within the broader precinct and any additional functions to be considered will address known community need as recorded within the adopted policies, plans and strategies of Council;

    (c) The Council owned properties at 117–123 Vere Street are underutilised and well located to provide for community uses;

    (d) The Sailors and Soldiers Memorial Hall at 152A Hoddle Street offers significant opportunity for refurbishment or redevelopment. This facility has been closed to community use for more than 10 years and is in an extremely poor condition;

    (e) The potential inclusion of the two additional properties (not owned by Council) at 125 and 127 Vere Street, would expand the quality and number of outcomes that can be achieved;

    (f) Active community infrastructure including the Collingwood Library building, Maternal and Child Health building in Gahan's Reserve and Willowview Centre, are currently operational, albeit not in fit-for-purpose buildings. While the relocation of these services would undoubtedly free up additional buildings in the precinct, this cannot occur until a new location and building is actually available;

    (g) Consideration of the parking lots behind the Town Hall as well as Eddy Court Reserve (in between 127 Vere Street and the train line) provides further potential for improving the precinct; and

    (h) There will be no net loss of open space.

14. The feasibility study looked at how to balance community benefit, financial feasibility and practical deliverability to produce a viable project at the northern end of the Collingwood Town Hall Precinct, incorporating Council-owned land and possible additional properties.

Site map – Collingwood Town Hall Precinct investigation area

15. The map above shows the investigation site, divided into four areas:

    (a) Area 1 incorporates the Sailors and Soldiers Hall at 152A Hoddle Street, and VicRoads land (the Hoddle Street footbridge ramp and green space);

    (b) Area 2 incorporates the two Council-owned warehouse buildings at 117 and 119–123 Vere Street;

    (c) Area 3 incorporates the privately-owned property at 125 Vere Street, the DHHS duplex at 127 Vere Street and Eddy Court Reserve; and

    (d) Area 4 incorporates the Yarra Council staff carpark at Eddy Court, north of Willowview, and includes some green space currently occupied by St Phillips Church but owned by Council.

16. Three potential scenarios were developed, all predicated on the following set of parameters adopted by the previous Council:

    (a) **Residential-only for any private component:** After assessing the sales value of residential versus commercial (office) floor space in this location, it was determined that residential dwellings would provide the highest value and best use for the location, therefore, commercial office space has not been included in the final study. A total of 200 residential dwellings has been modelled across the four areas;

    (b) **Retention of the Sailors and Soldiers Hall:** The Soldiers and Sailors Hall is in poor condition, however it has individual heritage significance under the Yarra Planning Scheme. The study has been progressed to include the retention and refurbishment of the Memorial Hall for new community infrastructure. It is important to note that the retention and refurbishment comes with a cost-burden of about $2.9M;

    (c) **1,000m^2 allocated to community facilities:** The study has allocated approximately 1,000 square metres for community facilities as part of the development. It is assumed that this would be located in the refurbished Sailors and Soldiers Hall and at the ground floor level on the Hoddle/Vere Street corner. This amount of space can accommodate a medium-sized library and other flexible spaces such as allied health consulting rooms (MCH, etc.) and multi-purpose community rooms;

    (d) **Building heights of three and five stories:** In keeping with surrounding buildings, in particular the recent residential development located opposite the precinct on Vere Street, a maximum building height of five stories has been modelled, with three stories

toward the street interface. As a point of reference, if this were increased to four and eight stories in areas 2, 3 and 4, an additional 90 market units could be built, improving the residual land value by approximately $9M;

(e) **No residential car parking provided:** Considering the excellent public transport connections in the area, the development has been modelled without residential parking, except for 10 share-car vehicle spaces. If the development were to include standard rates of basement car parking for a development of this size (7,950m^2 or 230 bays), this would have a negative impact on the residual land value by approximately $6.4M; and

(f) **High Environmentally Sustainable Design (ESD) standards and dwelling diversity achieved:** The development cost accounts for reaching high ESD standards and dwelling diversity through the delivery of a mixture of 1, 2 and 3 bedroom dwellings.

17. The consultants were asked to look at various scenarios, based on initial advice and the resolution of principles adopted by the previous Council. The three scenarios (see attachment 1) differ in terms of the ratios of social and affordable housing to private market residential housing.

    Scenario A: Provides a minimum of 50% (comprising 30% social and 20% affordable) of dwelling stock as social and affordable housing units.

    Scenario B: Provides 30% (comprising 20% social and 10% affordable) of dwelling stock as social and affordable housing units.

    Scenario C: Provides 10% affordable housing units, with further social housing provided as air rights to others as opposed to being fully developed.

18. For Scenario C, the air-rights to develop social housing in areas 1 and 2, above and adjacent to the community facilities are transferred (sold/gifted/long-term leased) to a third party (e.g. registered housing association and/or the Victorian Government) to develop. This third party must secure their own finance to develop these dwellings. This helps to de-risk the project by decoupling the social housing component from the main redevelopment and makes it more attractive to potential developers.

19. Council has the additional option and could determine that an even greater proportion of social and affordable housing is required and desirable, up to 100%. Whilst not a specific area of study, in this scenario even greater levels of subsidy would be required over and above that determined by the feasibility study. Furthermore, it was noted during the market testing that some community housing operators dwellings that having a substantial majority of dwellings realised as social housing in any proposed development was not necessarily the best operating outcome for residents.

20. The feasibility study has illustrated the cost implications for Council to pursue a mixed-use development in the Collingwood Town Hall Precinct, on Council-owned land and with potential future acquisitions.

21. As tested through the study, the inclusion of the additional properties (not owned by Council) at 125 and 127 Vere Street (Area 3 on the map above) resulted in considerably more favourable financial and built form outcomes.

22. The modelling is based on calculations in which key variables such as sales price/m^2, construction cost/m^2, floorspace and other components can be readily altered to observe the impact on the viability of each development scenario. The approach has held project management and consultant costs, financing, development margins, profit and other development related costs constant (as a percentage of total construction costs) and the viability or otherwise of the different development scenarios is expressed by way of the residual land value.

23. The residual land value indicates the value of the land according to the development scenario being tested. A negative residual land value indicates a poor market outcome in which a developer would not be willing to undertake the development until:

(a) market conditions have improved sufficiently to improve the commercial viability for that specific development option (for example, a significant increase in the apartment sale price per square metre); or

(b) a subsidy is available to fill the gap.

24. The conceptual modelling is a high-level exercise and is not a substitute for the detailed development costing and feasibility testing that would be required to advance a development to the next stage.

Feasibility study results

25. The results of the feasibility study show total development costs for the three scenarios ranging from $91.5M (for scenarios A and B) to $75.6M for scenario C. The three options presented have very different financial implications, with the residual land value ranging from -28M to +$2M.

26. In each of these scenarios the underlying premise was that Council's contribution was the value extracted from its land holdings, sold or leased. However, what has become clear through this feasibility study is that this land value alone is not sufficient to deliver both community infrastructure and social and affordable housing. Therefore, a considerable additional subsidy is essential to deliver a viable project.

27. Additional work went into exploring the development of a community facility both in and adjacent to the Sailors and Soldiers Memorial Hall on Hoddle Street. A concept plan and probable costings have been prepared for a two-level expansion integrated with the existing hall, yielding a total floor area of about 1,600m^2.

28. The preliminary design investigations have been based around a multipurpose library hub with gallery space and other flexible community rooms, consulting suites and a café. Yarra's Community Infrastructure Plan (2018) identifies the Sailors and Soldiers Memorial Hall and surrounds as an opportunity to deliver an integrated community space in the CTH Precinct. The functions included in the design investigation have all been listed in the Community Infrastructure Plan.

29. The design takes a sensitive approach to the existing heritage building, accentuating the existing features of the building, while adding new accessible spaces and entry points through the expanded footprint. A preliminary cost exercise estimates a cost of about $12M to restore and fit-out a facility of this type of scale and function at this location.

30. The full feasibility study is shown at **Attachment 1**.

Further work

31. In response to these scenarios a market testing exercise was completed with stakeholders from the community housing and private development sectors to check the practical feasibility of the scenarios. Results of the stakeholder consultation are provided below in the section 'Community and stakeholder engagement'.

32. Additionally, commercial property valuations have been undertaken for council-owned properties in the precinct. Results of these are shown under the section 'Financial and resource implications'.

33. Councillors were engaged through a workshop in early 2021 to discuss the possible future of the site. This report has been prepared in response to that discussion and to report back on the full results of the work that has been done in response to the 2019–20 budget bid and directions of the previous Council.

Discussion

34. The studies mentioned above have significantly increased our knowledge about the site and the potential to deliver key outcomes that include social and affordable housing, contemporary fit-for-purpose community infrastructure and improvements to the urban realm and connectivity in the area, while ensuring minimal capital expenditure from Council.

35. The following list provides an example of some of the challenges that Council would need to address in order to progress the project:

    (a) The poor condition of the Sailors and Soldiers Hall (152A Hoddle Street) along with the heritage overlay presents considerable risk and associated cost. Restoring this building impacts on the overall viability of the project.

    (b) The value of the land that Council owns is not enough in itself to fund both a new community facility and a high number of social housing dwellings. Significant additional subsidy is required to deliver both outcomes at the site.

    (c) Several external interests within or adjoining the site would need to be addressed in progressing this project including:

        (i) the VicRoads Hoddle Street overpass at the north-west corner of the site (currently not Disability Discrimination Act compliant);

        (ii) access to, or relocation of, a CitiPower substation;

        (iii) occupation of Council-owned land by St Phillips Church (see 'Legal Implications' section below) and road access to the Church;

        (iv) acquisition of a private property at 125 Vere Street (see 'Legal Implications' section below);

        (v) inclusion of a DHHS public housing duplex at 127 Vere Street; and

        (vi) proximity to VicTrack land at the eastern boundary.

    (d) Market testing revealed that there is interest in delivering a mixed-use development in the area from potential joint-venture partners, however Council's choice of project specifications and terms for transfer of land are key to bringing forth a feasible and desirable proposal. For example, should Council determine that it is desirable to only lease its land holdings on the site, private sales of dwellings becomes impossible and therefore greater subsidy would need to be sought to realise any outcome. Furthermore in this scenario, the funding source (presumably state government) would need to agree that this is an acceptable outcome, which has not been tested.

36. In response to the COVID-19 pandemic and ensuing economic recession, the funding environment has changed significantly since the commencement of this project. On 15 November 2020, the Victorian Government announced a $5.3 billion stimulus package for social and affordable housing.

37. Over the coming four years, significant investment will go into delivering additional (primarily) social housing in Victoria. This growth will largely be delivered by the community housing sector and increases the likelihood of achieving a high proportion of social housing at the site. Under normal circumstances, and as was the case when the financial modelling was undertaken, the subsidy gap would need to be delivered by increasing the market component, however, now there is considerable government subsidy available in Victoria for the purposes of increasing social and affordable housing. Partnering with a Registered Housing Association for the project could be a way to seek funds from this funding stream to deliver these outcomes.

38. In consideration of the current funding environment and engagement with the Victorian Government, along with the results of the feasibility study, officers suggest that it is possible to achieve a high proportion of social and affordable housing alongside market housing at the site, as well as a community hub.

39. Considering the numerous studies and information provided in this report, Councillors now need to provide direction as to whether to progress this project and if so, under what terms.

Options

40. The work completed in response to the 2019–20 budget bid and subsequent motion has shown not only the cost implications for pursuing the specified outcomes, it has also significantly improved our understanding of the opportunities and limitations of the site and the assets therein.

41. It is important to note that significant resources have already gone into exploring opportunities for redeveloping this part of the CTH precinct. Any exploration of scenarios significantly different to those already considered will require additional work and resources to be allocated.

42. The *Yarra Property Strategy* (2018) articulates principles to drive Council's approach to managing the property portfolio. These include to:

    (a) Strategically manage the property portfolio for the long term in the best interest of the community and service level requirements;

    (b) Ensure properties are 'fit for purpose' to deliver services and benefits to the community;

    (c) Manage properties that are maintained to a safe, compliant, energy efficient and modern-day standard and generally protected from deterioration; and

    (d) Enable new and ongoing partnerships with community organisations to maximise the community benefit arising from facility use.

43. Council can now consider whether to take the next steps towards the redevelopment of the northern corner of the Collingwood Town Hall Precinct.

44. Drawing upon the insights from the feasibility study and associated work, Council could pursue one of the following options:

    (a) Continue to seek an outcome that delivers a mixed-use development as explored through the feasibility work and supported by several Council Resolutions. This option necessitates the use of a larger footprint – i.e. including the acquisition of additional assets – as well as a level of comfort with a public-private outcome at the site and a continued partnership with the Victorian Government. This option would be based on the following requirements:

        (i) no less than 1,000m2 for a community hub, including contemporary library spaces, flexible arts and community rooms and consulting suites; and

        (ii) a minimum of 30% and up to 50% of dwellings allocated to social and affordable housing.

    (b) Using a smaller footprint, facilitate the development of social and affordable housing in the precinct by leasing the council-owned warehouse sites at 117–123 Vere Street to a Registered Housing Agency (RHA). With funding available through the 'Big Housing Build' there is likely to be interest from the community housing sector who could develop and manage the properties for the duration of the agreed lease term. In this scenario the Sailors and Soldiers Hall is not restored.

    (c) Using a smaller footprint, develop a new Community Hub in the precinct, based around, and including the restoration of, the Sailors and Soldiers Memorial Hall on Hoddle Street. Possible ways to fund such a project could include:

        (i) Council borrowings; or

        (ii) Sale of other assets in the precinct to fund some/most of project. Estimated value of Council assets in the precinct are provided in the 'Financial and Resource Impacts' section below. It is worth noting that the market assessments for the Collingwood Library and Vere Street warehouses together equate to a similar amount as the probable costings for a library hub with a floor area of about 1,600m^2, as explored in the feasibility study.

(d) Develop a combination of b) and c) on the Council-owned sites at 117–123 Vere Street and 152A Hoddle Street, including the restoration of the Sailors and Soldiers Hall. Importantly, in this scenario, although the social housing can likely be achieved in the current funding environment, Council would need to find a way to pay for the community facility as there is no cross-subsidy coming from a market component.

45. If Council does not want to progress any of these proposed redevelopment options, it could:

(a) Sell underutilised Council assets in the precinct to increase revenue to fund Council projects. The estimated commercial value of several assets in the precinct is provided in the 'Financial and Resource Impacts' section below. Property sales could provide Council revenue to be used for community outcomes within this precinct or elsewhere. Outside of planning controls, Council would have limited ability to influence any resulting development.

(b) Leave the site as it is. This would result in the continuation of unused and deteriorating buildings in the precinct and involve costs for essential maintenance to ensure safety of buildings.

Community and stakeholder engagement

46. Potential joint-venture partners representing the private development and community housing sectors were engaged in October 2020 through a market-testing exercise. The engagement explored the practical feasibility and operational viability of the scenarios in relation to:

(a) the thresholds of social and affordable housing provision;

(b) the underlying assumptions;

(c) potential housing models;

(d) on-site service requirements; and

(e) the interviewee's hypothetical interest in the project, based on the information available.

47. A confidential attachment summarising the outcome of the stakeholder engagement has been provided separately for Councillors. The results from the stakeholder engagement exercise showed that further clarity and certainty was required from Council in order to determine whether the proposal was viable. However, all participants indicated they would be interested in participating in the project – depending on the specific requirements and depending on who would pay for each aspect.

48. Participants were concerned about the risk imposed by including the heritage building (Sailors and Soldiers Hall) in the proposal. They were keen for Council to provide certainty around outcomes and clear objectives to make an Expression of Interest or a Request For Proposal submission worthwhile. Participants also expressed a desire to have some flexibility in how the outcomes would be achieved.

49. Neither all community housing participants nor all developers had consistent ideas, and there was some divergence of opinion when it came to the proportion of social housing that was appropriate for the site. The maximum suggested was a third. Some considered the proposal an underdevelopment of the site and some thought more carparking should be included.

50. The engagement process also identified that there are a small number of private developers who have experience in delivering social and affordable housing through non-traditional development models. They combine experience and understanding of commercial development with experience and understanding of non-market housing. They operate at a larger scale and volume than Registered Housing Authority developers and have more experience in development.

51. There has been ongoing engagement with DHHS (now DFFH) on the project and the department has also contributed funds toward the feasibility work.

52. Results from Yarra's 2019 annual household customer satisfaction survey, a randomised sample of 800 households, showed that 59 percent of respondents strongly agreed that there must be more housing in the municipality for people on low incomes, and 34 percent were neutral or somewhat agreed.

53. A consultation program on Yarra's Social and Affordable Housing Strategy was conducted in July–August 2019. Results from this consultation showed that:

    (a) There was mixed feedback received on *Strategic Direction 2: Make effective and prudent direct investments in social and affordable housing*. Many considered this to be the most effective of the four strategic directions because it would have a clear and material impact, while some held concerns that such an investment may come at the expense of other outcomes for the local community; and

    (b) Respondents also suggested that Strategic Direction 2 opened opportunities for joint developments with Council, Public and Community housing, as well as engaging private developers, and industry feedback was very positive, in particular amongst community housing providers who are keen to grow their affordable housing stock in a well-located area like Yarra. Any monetary or in-kind support greatly helps them achieve this.

54. To date this proposal has not been put to the community. Should Council adopt the Recommendation below, the next step would be to develop a comprehensive community engagement plan for the project and to return this to Council for endorsement.

55. A community engagement process would seek feedback on the principles of the project (development of the land, use of Council assets for these purposes, mix of public and private outcomes), as well as the specifics of the project through the development of built form and urban design guidelines for the site. This would test whether the community supports the broader concepts and provide a practical outcome to which they can contribute.

56. Urban design guidelines for the site could be used in progressing the project and as a basis for a potential Expression of Interest process.

Policy analysis

Alignment to Council Plan

57. Strategy 1.7 in the Council Plan (2017–2021) seeks to 'Promote an effective and compassionate approach to rough sleeping and advocate for affordable, appropriate housing.' Additionally, Strategy 4.2. seeks to 'Actively plan for Yarra's projected growth and development and advocate for an increase in social and affordable housing.'

58. Additionally, Strategy 7.1 is to 'Ensure Council's assets and financial resources are managed responsibly to deliver financial sustainability', including initiative 7.1.2 to 'Review Council's asset portfolio, with a focus on buildings, to ensure that maximum community benefit is being realised.'

59. Strategic justification for various elements of this project are presented in the following Council strategies:

    (a) *Yarra Housing Strategy* (2018) – Strategic Direction 4: Facilitate the provision of more affordable housing in Yarra;

    (b) *Social and Affordable Housing Strategy* (2019) – Strategic Direction 2: Make effective and prudent direct investments in social and affordable housing;

    (c) *Homelessness Strategy* (2020) – Strategic Direction 3: Work toward the ultimate goal of prevention by supporting an increase of affordable housing and appropriate support services;

    (d) *Community Infrastructure Plan* (2018) – Vision: To identify current and future needs so that Council can deliver and influence the provision of quality, flexible and responsive community infrastructure to support a prosperous, liveable and sustainable City of Yarra; and

(e) *Collingwood Town Hall Precinct Urban Design Framework* (2010).

Climate emergency and sustainability implications

60. In the development scenarios, 200 dwellings along with community infrastructure are located proximate to the Collingwood train station, major bus routes and active transport options. For these reasons only ten share-car parking spaces have been included.

61. Should the project progress, further detailed studies at the next stages of the project would give due consideration to sustainability implications and ensure that any resulting development maintain high ESD standards and that public realm improvements consider urban heat island effects, storm water catchment and sustainability.

62. The project will strive to accelerate renewable energy, zero carbon buildings and promote efficient operations to contribute to a climate-adapted city, as outlined in Yarra's Climate Emergency Plan and in line with one of the set parameters of this project: To deliver a development with high ESD (and dwelling diversity).

Community and social implications

63. The Sailors and Soldiers Memorial Hall is not fit-for-purpose and the two Council-owned warehouse buildings at 117–123 Vere St Vere Street are used for storage. These council owned assets within the northern corner of the Collingwood Town Hall Precinct are underutilised and are currently not providing community benefit.

64. Summary demographics for the surrounding residential population (i.e. within a 400-metre radial catchment of the study location) are as follows: 43% of households are in public housing, 44% of households reside in flats or apartments, 37% speak a language other than English at home and 29% do not own a motor vehicle (ABS Census of Population and Housing, 2016).

65. A future redevelopment could contribute significantly to improving social outcomes in the municipality through the provision of social and affordable housing and new community infrastructure.

66. Across the municipality, it is estimated that more than 6,000 Yarra households (15%) are in housing stress. More than half of those in housing stress are rental households on very low incomes.

67. The Social and Affordable Housing Strategy supports housing equity and aims to increase the socio-economic diversity of our community by increasing affordable housing for a range of income groups.

68. The Strategy identifies affordable housing need for the following groups in Yarra:

    (a) people who are experiencing homelessness;

    (b) low-income households in the private market;

    (c) Aboriginal and Torres Strait Islander people;

    (d) people with a disability; and

    (e) key workers.

69. Furthermore, Yarra's *Community Infrastructure Plan* (2018) identifies the Soldiers and Sailors Memorial Hall and surrounds as an opportunity to deliver an integrated community space in the Collingwood Town Hall Precinct that may include flexible/multipurpose meeting spaces (including for art and cultural activities) and access to services.

70. The Plan also notes the poor condition of the current Stanton Street (Collingwood) library, suggesting that improved community access to best value library services could be achieved through a modern space that is integrated with other services. Likewise, the Abbotsford Maternal and Child Health Centre in Gahan's Reserve could have better amenity and integration with compatible services.

Economic development implications

71. Currently, there are negligible economic benefits being generated from the properties at the corner of Hoddle and Vere Street. Any redevelopment could help rejuvenate and activate the area, with short-to-medium terms benefits through the actual development itself, and longer-term benefits through the provision of new community services, improved amenity and additional opportunities for residents to participate in the local economy.

72. Numerous studies point to the economic value of providing social housing, particularly as a stimulus measure in response to the current economic recession. Not only does it provide construction jobs in the short-term – nearly one in ten Australians work in the construction industry and many more are employed locally in manufacturing building products – but it also provides a lasting and much needed social outcome in providing housing to people in housing stress, those who are homeless, and key workers supporting local industries.

73. An independent review by KPMG of the 2008 Social Housing Initiative – a key component of the Nation Building Economic Stimulus Package mandated by the Rudd Government in response to the 2008 Global Financial Crisis – found that there was a multiplier effect of 1.3 for every dollar spent on social housing over a four-year period.

74. The current Victorian 'Big Housing Build' estimates that the $5.3 billion government investment will generate $6.7 billion in economic activity.

Human rights and gender equality implications

75. The dwellings at 125 and 127 Vere St are currently occupied. In the event that redevelopment did occur, the housing needs of these residents would need to be considered and efforts made to work with stakeholders (Office of Housing or others) on sourcing appropriate alternate accommodation during construction and options for right of return subsequent to project completion.

Operational analysis

Financial and resource impacts

76. The cost of acquiring the property at 125 Vere Street has been included in the costings, while the DHHS (now DFFH) property at 127 Vere Street has been factored in at no cost.

77. A Quantity Surveyor (QS) report for the remediation of the Sailors and Soldiers Memorial Hall, to make it structurally sound, safe for occupation and compliant with the building code, was undertaken in 2014. This report was reviewed and updated in January 2021 with a resulting estimated project cost of $2.9 million. This assumes a project start date in January 2022 and does not include fit-out for a particular use.

78. Commercial property valuations for the Council-owned properties in the Collingwood Town Hall Precinct have been prepared with the following results:

Property	Market assessment
Sailors and Soldiers Hall (152A Hoddle Street)	$1,450,000
117 Vere Street (Yarra Sculpture Gallery)	$1,850,000
119–123 Vere Street (Warehouse)	$3,850,000
117 & 119–123 Vere Street (combined site)	$6,000,000
Collingwood Library (7–11 Stanton Street)	$5,250,000

79. The highest and best use for the Vere Street properties is for residential development with a height limit of 4 levels, assuming a rezone in accordance with the *Collingwood Town Hall Precinct Urban Design Framework*.

80. The individual market assessments of the Sailors and Soldiers Hall and the Collingwood Library take into account each building's heritage status and the estimated cost to refurbish them to a usable and compliant standard. The assessment is based on the highest and best use for the sites which was judged to be as office accommodation in accordance with public use. Although it is located outside the study site, the library has been assessed due to the proposed inclusion of a library facility in the new development, which would free up the existing building for sale or reuse.

81. Furthermore, a market assessment of the Council land and properties in the full study area that could be used for residential development – i.e. 117–123 Vere Street and Eddy Court north car park – has been valued at $15,000,000 (if sold as an aggregated site). This higher value is due to the advantages associated with development yield and the ability to consolidate the site with 125 Vere and 127 Vere Street. The aggregated area of these three properties is 2,867m^2. The Sailors and Soldiers Hall has not been included in this combined assessment due to its heritage status and the poor condition of the building which diminishes its market value and likelihood of being combined in a bigger residential site.

82. It is worth noting that the Council-owned property at 119–123 Vere Street (currently used as a Council storage facility) has an allocation of $355,000 in the 2020–21 capital works program for the purpose of removing and remediating decommissioned underground tanks located within the building, previously used to store solvents. As well as removing the solvent tanks and disposing of any contaminated soil, the intent is to dispose most of the contents of the warehouse, which is primarily retired end-of-life parking ticket machines and old office furniture, understood to have no further value to Council.

83. Council has also investigated options to demolish both the 119–123 Vere St building (the Council storage facility) and the adjacent 117 Vere St building (currently leased to and utilised by the Yarra Sculpture Gallery). A preliminary estimate of the incremental cost to demolish both of the buildings in the 2021–22 budget year is $330k (following on from the removal of the solvent tanks this budget year).

84. The feasibility study has modelled scenarios that are based on Council's contribution being primarily in the form of land holdings. However, it has become clear through this feasibility study that the land value alone is insufficient to deliver both community infrastructure and social and affordable housing. Additional subsidy is therefore essential to deliver a feasible project with a high social and affordable housing yield.

85. Since the start of this study there has however been a significant change in the funding environment for social housing, following the announcement of the Victorian Government 'Big Housing Build' in November 2020. Under this scheme $5.3 billion has been allocated to deliver 12,000 new social and affordable housing dwellings over the next four years. Most, if not all, of this to be delivered by Registered Housing Associations (RHAs). This increases the likelihood of RHAs being able to access funds to contribute to a project like this.

86. Ongoing conversations with the Victorian Government suggest that it is interested to continue to explore opportunities to work with Council to achieve social housing outcomes at the site, with the inclusion of the public housing property at 127 Vere Street.

87. There are no significant external funding sources available for community infrastructure at this stage, although limited funding sources may be available in the future such as the 'living libraries infrastructure fund'.

88. In the event that a mixed-use development outcome was pursued, Council would have to make a decision on whether it would offer the land as freehold (to sell) or leasehold (to lease over a long period). A freehold arrangement increases the value that can be extracted from the land in the short-term and improves the likelihood of receiving interest in the site if/when it goes to market. It does, however, lead to less certainty and control over the outcomes. Alternatively, a leasehold arrangement may still be possible under certain scenarios and with particular products (such as build-to-rent) and would allow to retain the community assets in the long-term. There could be significant cost implications with this approach.

Legal Implications

89. Officers have made contact with the property at 125 Vere Street, however at this stage no offer to purchase the property has been made.

90. Through the feasibility work, Officers have also discovered the occupation of Council land by St Philips Church and have requested that they enter into a licence agreement for a peppercorn licence fee to ensure that this can be terminated if/when required.

91. If Council sells or exchanges any land it must comply with section 114 of the *Local Government Act 2020*. This includes the requirement to:

    (a) publish notice of the intention to sell at least four weeks prior;

    (b) undertake a community engagement process; and

    (c) obtain an up-to-date valuation of the land.

92. In the event that Council wishes to lease land it must comply with section 115 of the *Local Government Act 2020,* which stipulates that a lease term can be up to a maximum of 50 years and that Council must either include any proposal to lease land in a financial year in the budget or undertake a community engagement process in accordance with Council's community engagement policy in respect of the proposal before entering into the lease.

93. The only reason whereby Council may lease or sell assets without consideration is if it is to transfer, exchange or lease land to the Crown, a Minister, any public body, the trustees appointed under any Act to be held on trust for public or municipal purposes, or a public hospital. This is in accordance with section 116 of the *Local Government Act 2020*.

94. If this proposal were to progress to an Expression of Interest or Development Agreement, probity and legal advice would need to be sought to ensure a project that adequately balances community benefit, financial sustainability and risk.

Conclusion

95. The feasibility study has illustrated the cost implications for Council to pursue a mixed-use development in the Collingwood Town Hall Precinct within a working set of parameters (i.e. development footprint, building height, community infrastructure, car parking, ESD standards and heritage considerations).

96. It examined how to balance community benefit, urban realm outcomes, financial feasibility and practical deliverability to produce a viable project at the northern end of the Collinwood Town Hall Precinct, incorporating Council-owned land and possible additional properties.

97. The results of the feasibility study show that total development costs for the three scenarios range from $91.5M (for scenarios A and B) to $75.6M for scenario C. The three options presented have very different financial implications with the residual land value ranging from -$28 million to +$2 million.

98. In each of these scenarios the underlying premise was that Council’s contribution was the value extracted from its land holdings, sold or leased. However, it has become clear through this feasibility study that this land value alone is not viable to deliver both community infrastructure and social and affordable housing. Additional, considerable subsidy is therefore essential to deliver a feasible project.

99. The Victorian Government’s $5.3 billion Big Housing Build is a currently available means by which the subsidy gap may be filled for a future project, if Council were to progress a project in line with what has been modelled within the feasibility study.

100. Drawing upon the insights from the feasibility study and associated work, officers have considered other conceivable options for this location with different property footprints, including community infrastructure, with and without social and affordable housing.

101. With the feasibility studies and associated works complete, Council can now consider whether it wishes to take the next steps and pursue the redevelopment of the northern end of the Collingwood Town Hall Precinct, and if so, on what terms.

RECOMMENDATION

1. That Council notes:
   (a) the completion of the feasibility study in response to the direction within the 2019–20 budget to undertake a feasibility study examining the potential to develop social and affordable housing options in the Collingwood Town Hall Precinct and the further Council motion from August 2019 to expand the feasibility study to include previously considered community uses, and that this work included:
      (i) Planning, urban design, massing and economic feasibility;
      (ii) Community infrastructure costs and concepts;
      (iii) Stakeholder engagement (including with potential joint-venture partners); and
      (iv) Commercial property valuations of council-owned land/buildings;
   (b) the redevelopment of the northern end of the Collingwood Town Hall Precinct has been investigated on multiple occasions over the past ten years, including delivering social and affordable housing, arts and other community outcomes (considered in 2013–14), and the option of the Victorian RSL assuming responsibility for the restoration and reactivation of the Sailors and Soldiers Hall (considered in 2018); and
   (c) the many challenges evident in redeveloping the northern end of the Collingwood Town Hall Precinct, including:
      (i) the deteriorating and underutilised Council-owned assets of Sailors and Soldiers Memorial Hall and the nineteenth century factories at 117–123 Vere Street;
      (ii) the many and varied property owners and complicating infrastructure within and around the study area; and
      (iii) the scale, land area and partners needed to achieve a financially viable mixed-use outcome at the site – with Council's main contribution being the land – which delivers a high proportion of social housing, alongside fit-for-purpose community infrastructure, with resulting improvements to the urban realm.
2. That Council thanks the Victorian Government for their contribution to the project, and thanks industry stakeholders for their time and thoughtful contribution to the stakeholder engagement exercise.
3. That with respect to the northern end of the Collingwood Town Hall Precinct, Council determines from one or more of the following options, and instructs officers to progress with further work including:
   (a) Continue to seek an outcome that delivers a mixed-use development, as explored through the feasibility work, that includes residential dwellings (with a minimum of 50% of dwellings allocated to social and affordable housing with the balance market housing); has no less than 1,000m^2 for a community hub (including contemporary library spaces, flexible arts and community rooms and consulting suites); and necessitates the acquisition of additional assets and a continued partnership with the Victorian Government, noting that additional land acquisitions will be required; or

(b) Commence the necessary work to facilitate the development of social and affordable housing through already Council-owned assets, specifically the leasing of the council-owned warehouse sites at 117–123 Vere Street to a Registered Housing Agency (RHA), with the refurbishment of the Sailors and Soldiers Hall not included; or

(c) Commence the necessary work to develop a new community hub in the precinct, based around, and including the refurbishment of the Sailors and Soldiers Memorial Hall on Hoddle Street, with the development of social and affordable housing not included, noting that Council would need to find additional resources for further feasibility and a source of funding for any potential community infrastructure project; or

(d) Commence the necessary work to develop a new community hub in the precinct, based around, and including the refurbishment of the Sailors and Soldiers Memorial Hall on Hoddle Street, as well as facilitating the development of limited social and affordable housing through the leasing of the council-owned warehouse sites at 117–123 Vere Street to a Registered Housing Agency (RHA), noting that Council would need to find a source of funding for the community infrastructure project; or

(e) Instigate the process to sell the underutilised Council assets such as 117–123 Vere Street and Sailors and Soldier at 152A Hoddle Street; or

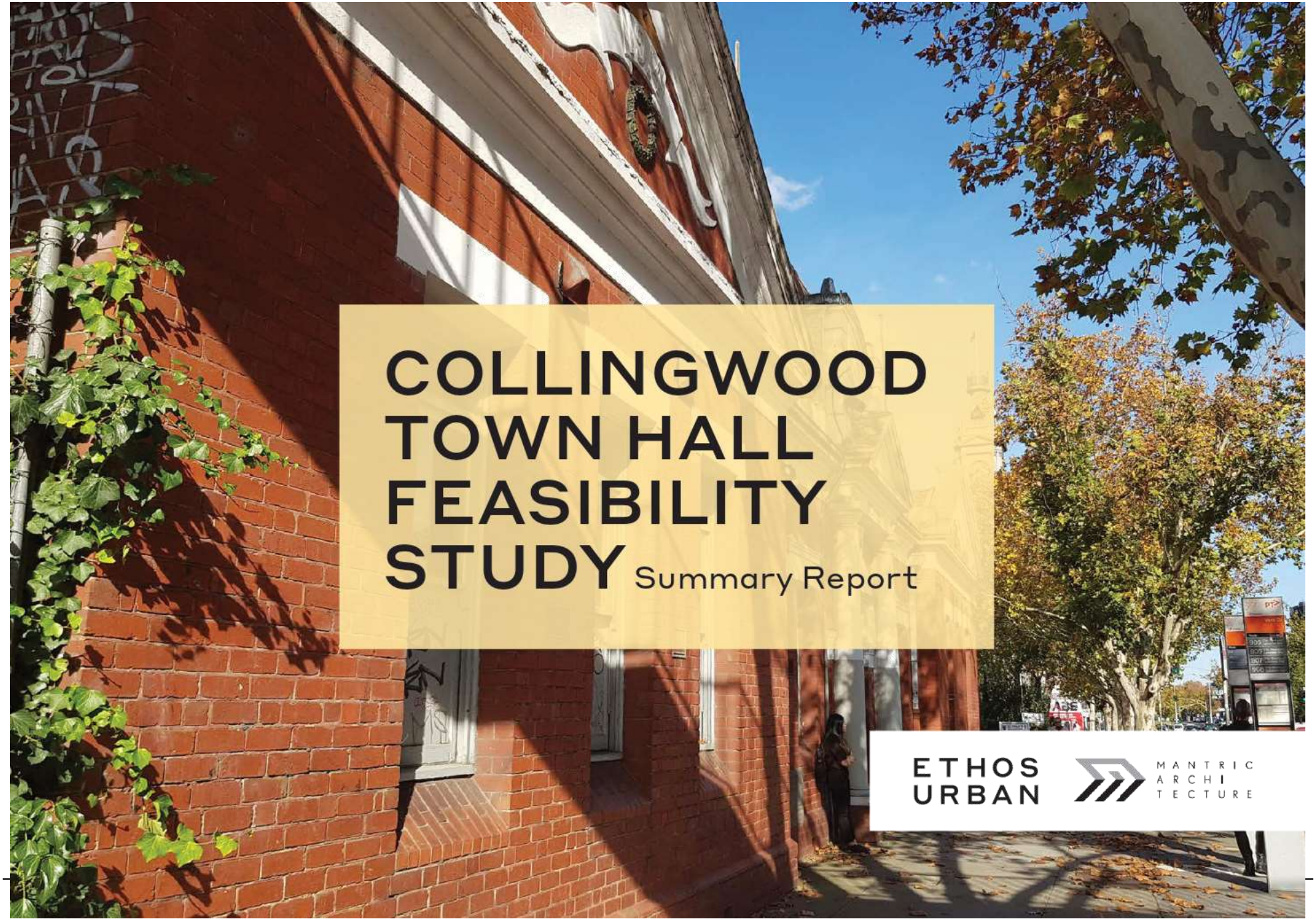
(f) Leave the site as is.

4. That Council directs officers to produce a consultation and engagement strategy for the preferred option and report back to Council to seek endorsement for the strategy and approval to consult the community.

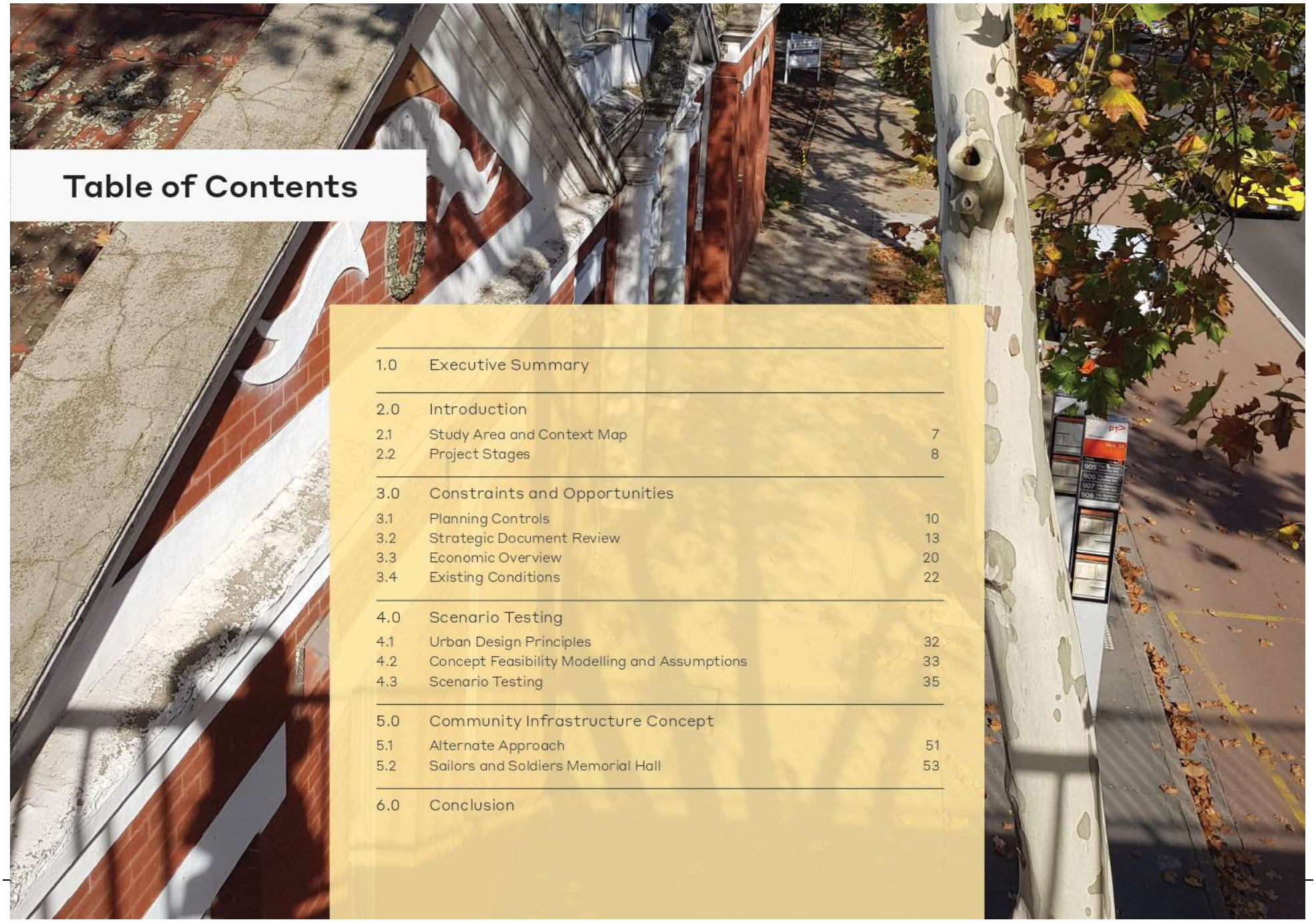
Attachments

1⇩ FINAL - Collingwood Town Hall Precinct Feasibility Study - Summary Report - Ethos Urban

Attachment 1 - FINAL - Collingwood Town Hall Precinct Feasibility Study - Summary Report - Ethos Urban



Attachment 1 - FINAL - Collingwood Town Hall Precinct Feasibility Study - Summary Report - Ethos Urban



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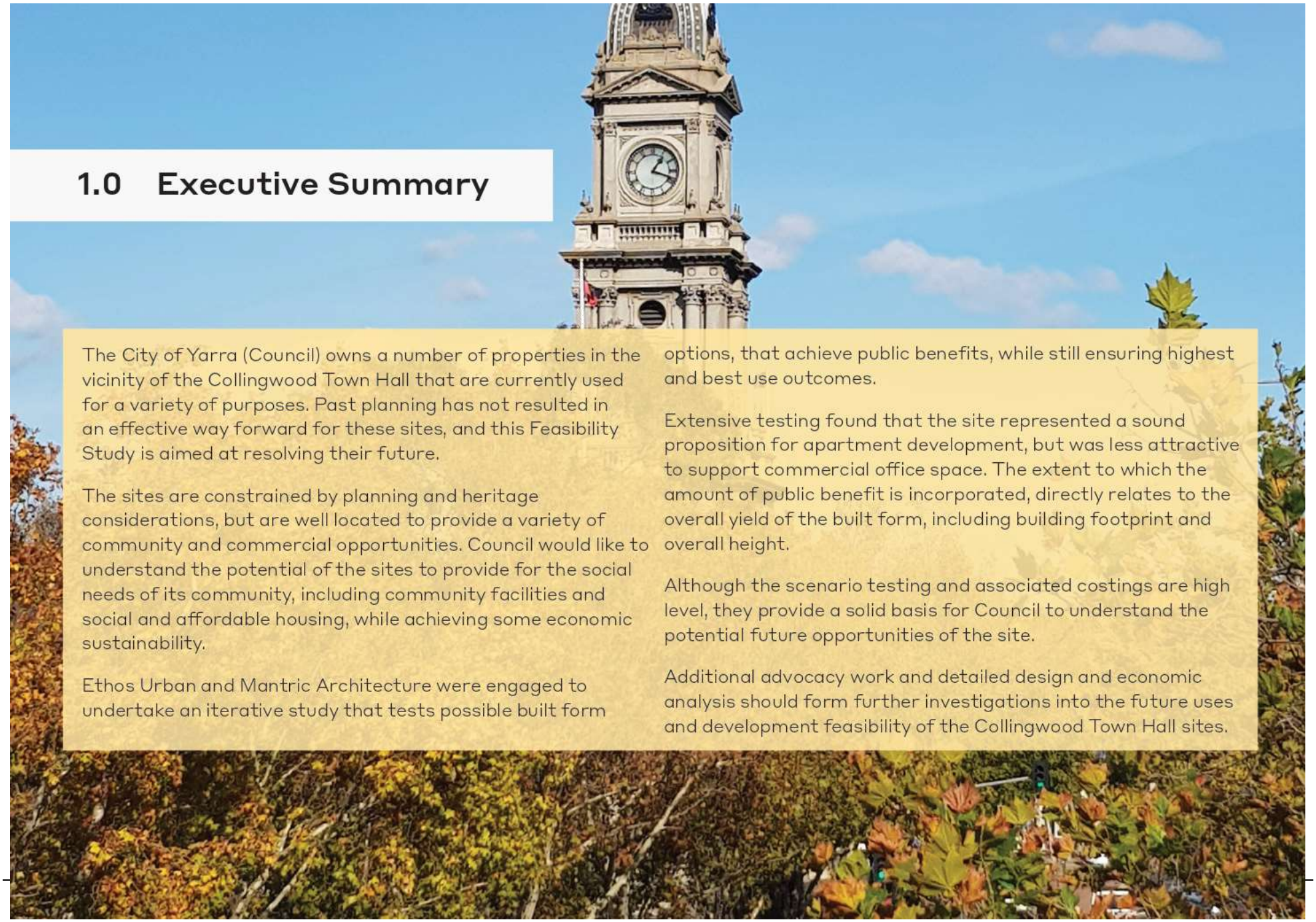


1.0 Executive Summary

The City of Yarra (Council) owns a number of properties in the vicinity of the Collingwood Town Hall that are currently used for a variety of purposes. Past planning has not resulted in an effective way forward for these sites, and this Feasibility Study is aimed at resolving their future.

The sites are constrained by planning and heritage considerations, but are well located to provide a variety of community and commercial opportunities. Council would like to understand the potential of the sites to provide for the social needs of its community, including community facilities and social and affordable housing, while achieving some economic sustainability.

Ethos Urban and Mantric Architecture were engaged to undertake an iterative study that tests possible built form options, that achieve public benefits, while still ensuring highest and best use outcomes.

Extensive testing found that the site represented a sound proposition for apartment development, but was less attractive to support commercial office space. The extent to which the amount of public benefit is incorporated, directly relates to the overall yield of the built form, including building footprint and overall height.

Although the scenario testing and associated costings are high level, they provide a solid basis for Council to understand the potential future opportunities of the site.

Additional advocacy work and detailed design and economic analysis should form further investigations into the future uses and development feasibility of the Collingwood Town Hall sites.

1.0 Executive Summary [continued]

The key driver of commercial viability and an adequate residual land value (RLV) is the volume saleable floorspace at commercial rates; the less saleable area in the development, the lower the RLV.

A positive residual land value of an adequate quantum to justify both the baseline cost/revenue proposition as well as the not insignificant risk associated with a development of this scale is essential to attract a developer to undertake development of the site. Without commercial viability, a developer would only be willing to undertake development if some form of financial reimbursement from Council was offered.

A summary of the yields under each development option and the residual land value estimates are outlined in the following table.

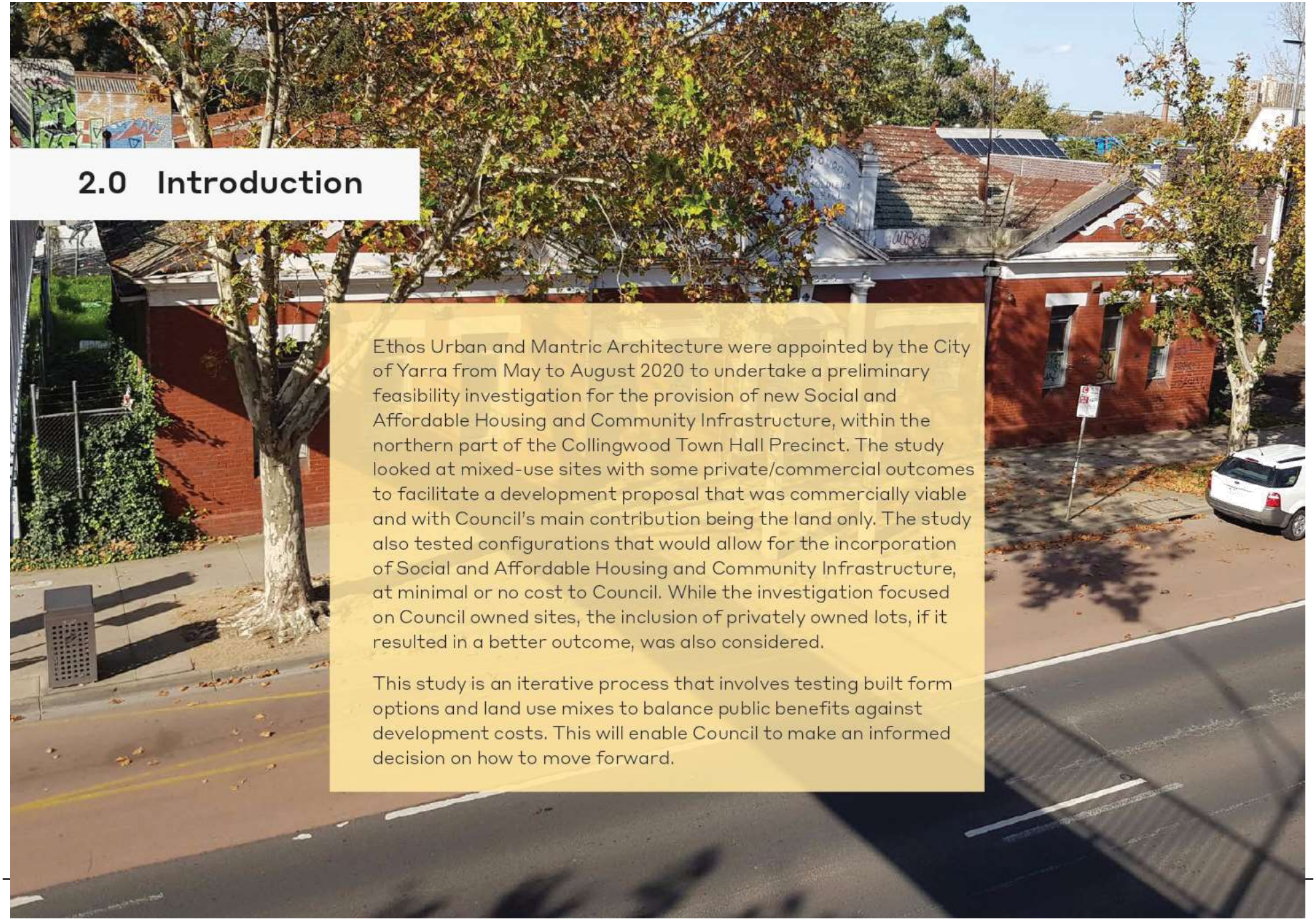
Option A and Option B deliver a substantial volume of social housing (5,010m² and 3,280m²) as well as some affordable housing (3,260m² and 1,640m²) and community space (1,070m²); these components provide no revenue (social housing and community space) or limited revenue (affordable housing), as a result the residual land value under these development options is negative at -$28.1 million for Option A and -$13.9 million for Option B. These development options would require Council to provide an additional $28.1 million and $13.9 million in additional funding in order for the developer to be willing to undertake the development.

	Option A 30% Social & 20% Affordable	Option B 20% Social & 10% Affordable	Option C Social by others & 10% affordable
Gross Floor Area (m2)			
Market Housing	8,150	11,500	11,500
Affordable Housing	3,260	1,640	1,640
Social Housing	5,010	3,280	-
Commercial	-	-	-
Community	1,070	1,070	1,070
Total	17,490	17,490	14,210
Residual Land Value	-$28.1 million	-$13.9 million	$2.0 million

In excluding social housing from development Option C, the volume of non-saleable floorspace is greatly reduced, to just the community space (1,070m²) and retention of affordable housing (1,640m²); as a result the residual land value under Option C is positive (+$2.0million), generating an income for Council from the development.

1.0 Executive Summary [continued]

Following the Options testing, Mantric Architecture undertook a more detailed exploration of the community infrastructure component, including built form and urban realm testing and associated probable costing, which considered the restoration of the Soldiers and Sailors Hall heritage building envelope. This alternate approach placed focus on the existing Hoddle Street scale and delivering an optimum outcome for the proposed community infrastructure. The massing studies/concept plans demonstrate that the two level expansion, integrated with the existing Soldiers and Sailors Memorial Hall protects as much of the existing heritage building envelope as possible and retains the visual integrity of its form and historical presence on Hoddle Street. This approach to the construction of the community infrastructure component with a floor area of 1,610.30sqm, resulted in an indicative probable costing of $12,250,219.46 (inclusive of the heritage restoration).



2.0 Introduction

Ethos Urban and Mantric Architecture were appointed by the City of Yarra from May to August 2020 to undertake a preliminary feasibility investigation for the provision of new Social and Affordable Housing and Community Infrastructure, within the northern part of the Collingwood Town Hall Precinct. The study looked at mixed-use sites with some private/commercial outcomes to facilitate a development proposal that was commercially viable and with Council's main contribution being the land only. The study also tested configurations that would allow for the incorporation of Social and Affordable Housing and Community Infrastructure, at minimal or no cost to Council. While the investigation focused on Council owned sites, the inclusion of privately owned lots, if it resulted in a better outcome, was also considered.

This study is an iterative process that involves testing built form options and land use mixes to balance public benefits against development costs. This will enable Council to make an informed decision on how to move forward.

2.1 Study Area and Context Map

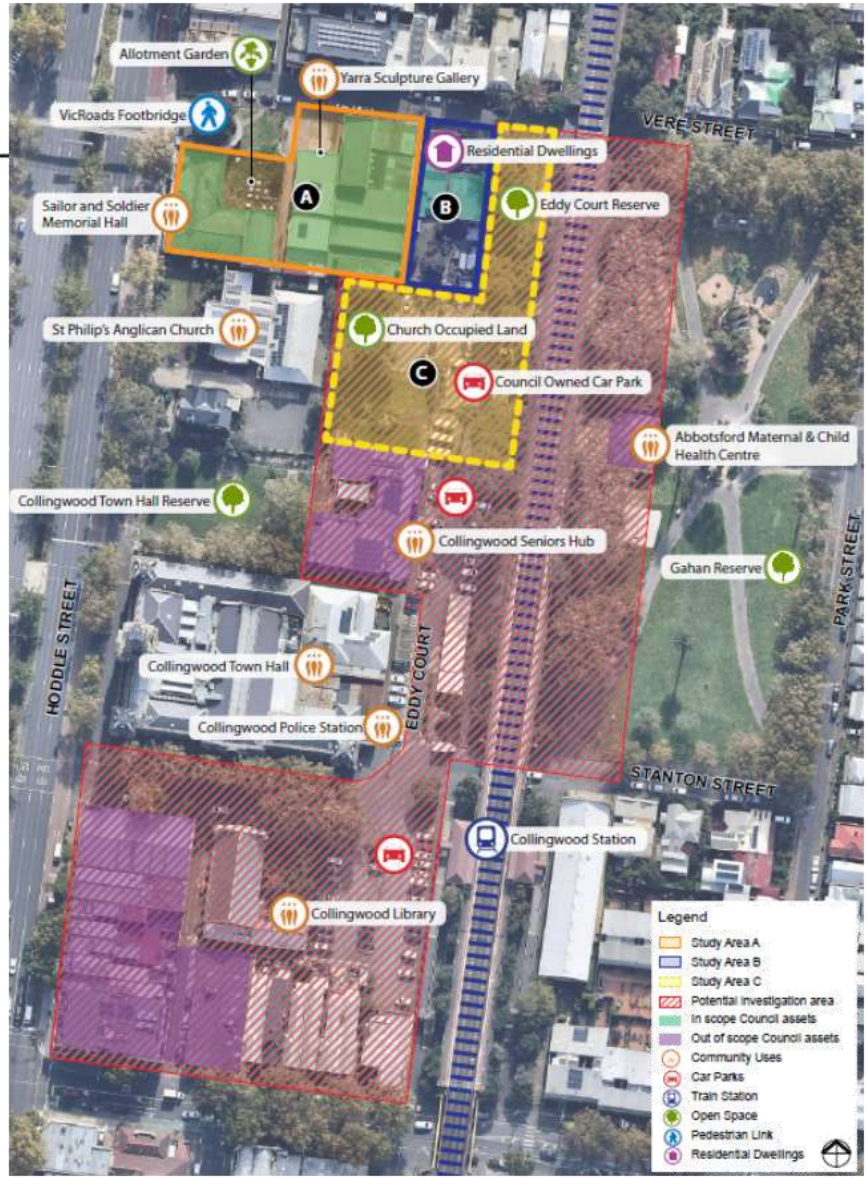
The study area includes a number of individual focus sites (A,B & C) as well as land identified as potential investigation areas. Combined, these sites form the overarching study area which stretches from Vere Street in the north to Gipps Street in the south. The main study area was split into three areas - A, B and C, based on lot arrangement and ownership. This allowed scenarios to consider the notion of staging any future development.

There are three components to the study:

1 **Planning**

2 **Urban Design Built Form**

3 **Economic Feasibility**



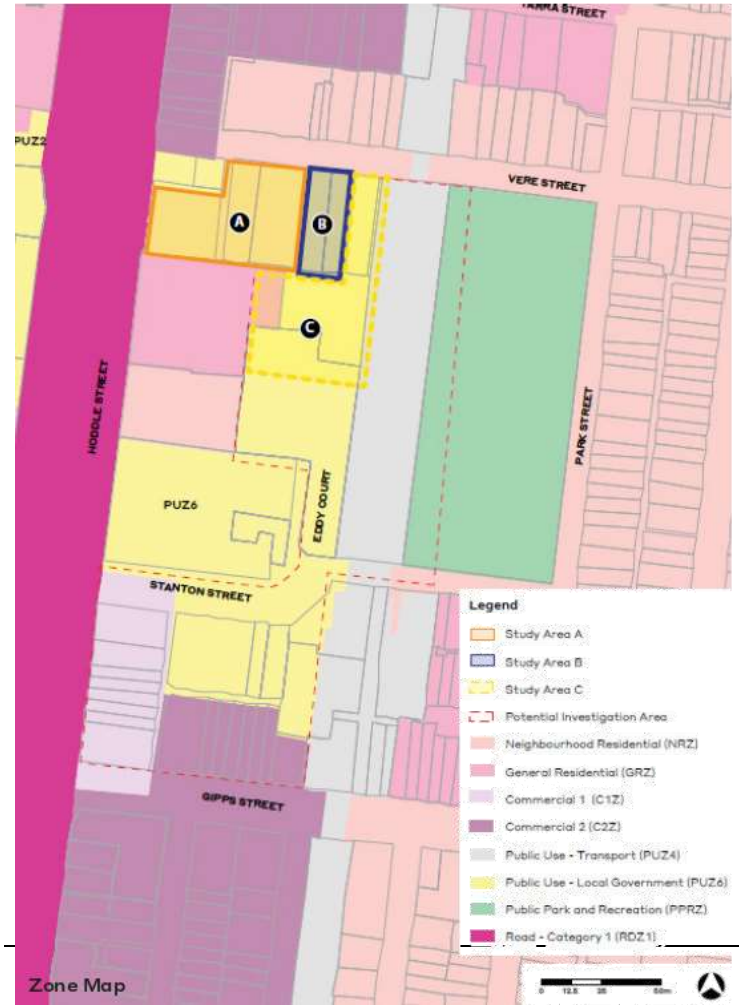
2.2 Project Stages

3.0 Constraints and Opportunities

The Constraints and Opportunities analysis identifies the opportunities and constraints of each of the study area sites A, B & C, from a built form (planning and urban design), local character and economic perspective.

This section also presents the preliminary contextual parameters for undertaking scenario testing on all sites, including heritage retention, street wall heights and setbacks, tree protection, shadowing limitations and important view lines.

3.1 Planning Controls



Zone Map

3.1.1 Zones

Public Use Zone 4 & 6 (PUZ4, PUZ6)

The PUZ4 provides for the use and development of land associated with Transportation. PUZ6 provides for the use and development of land associated with Local Government uses. A permit is not required for the use of land within this zone provided that the use is associated with the intended Transport or Local Government purposes. The PUZ4 applies to the eastern edge of Study Area C, as well as part of the potential investigation area. The PUZ6 applies to Study Area A, B and C.

General Residential Zone (GRZ2)

The GRZ2 provides for the development of residential dwellings that support a diversity of housing typologies, as well as other educational, recreational and community uses. Schedule 2 to the GRZ restricts the height of new dwellings or residential buildings to a maximum of 9 metres. GRZ2 applies to land along the western edge of Study Area C.

Neighbourhood Residential Zone (NRZ1)

The NRZ1 recognises areas of predominantly single and double storey residential development, ensuring that development respects the identified character of the area. The NRZ1 allows for residential, educational, recreational and some other community uses in appropriate locations. Under the NRZ1, building heights are restricted to a maximum of 2 storeys and 9 metres. The NRZ1

3.1.1 Zones [continued]

applies to land fronting Vere Street, immediately north of Study Areas A, B and C.

Commercial 1 Zone (C1Z)

The C1Z seeks to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. The zone also provides for residential uses at densities complementary to the role and scale of the commercial area. The C1Z applies to land within the potential investigation area and across Hoddle Street.

Commercial 2 Zone (C2Z)

The C2Z encourages the development of offices, manufacturing and industries as well as bulky goods retailing. Importantly the zone seeks to ensure that uses do not affect the amenity of any surrounding sensitive land use. The C2Z applies to land at the southern end of the potential investigation area and along Hoddle Street.

3.1.2 Overlays

Design and Development Overlay (DDO2)

The Design and Development Overlay Schedule 2 seeks to recognise the importance of main roads and their image within the City of Yarra. Design objectives outlined by this overlay include the need to:

- Retain existing streetscapes
- Enhance heritage qualities of main roads
- Reinforce the pattern of development within the street
- Encourage high quality contemporary architecture
- Encourage urban design that provides for a high level of community safety and comfort
- Maintain amenity to adjacent residential uses

DDO2 applies to the western edge of Study Area A, as well as the potential investigation area.

3.1.2 Overlays [continued]

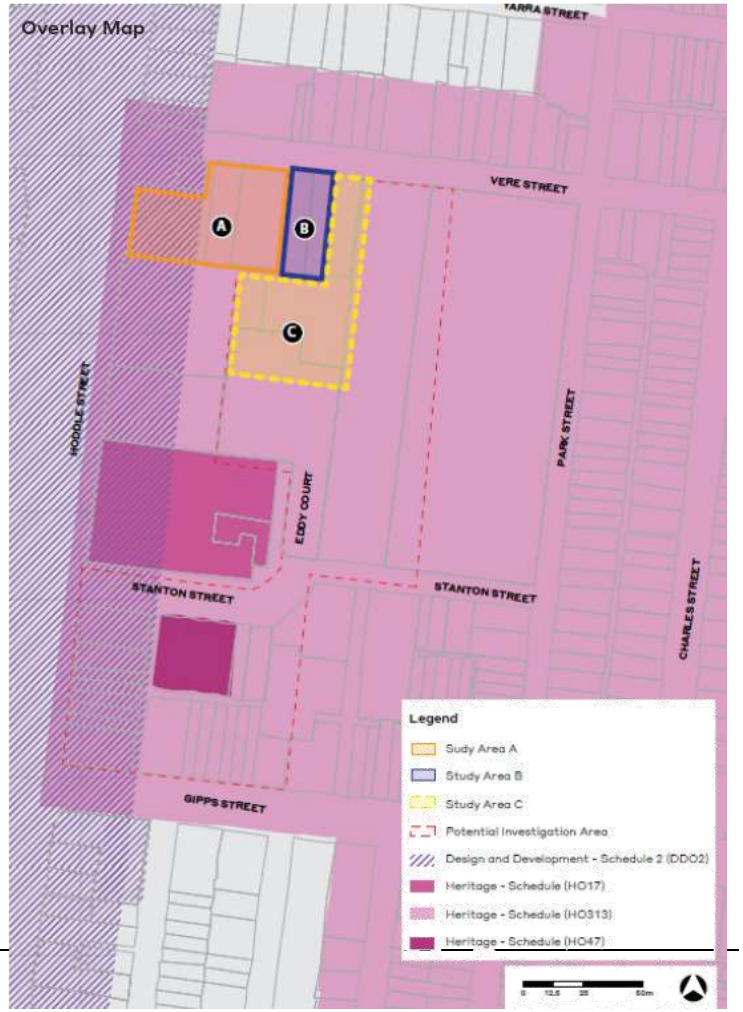
Heritage Overlay (HO)

The HO seeks to conserve and enhance places of heritage or cultural significance. The HO contains a number of permit requirements relating to buildings and works, external painting and vegetation removal among other things.

Heritage Overlay 17 (HO17) refers to the Collingwood Town Hall at 140 Hoddle Street, Abbotsford. The Collingwood Town Hall is also included on the Victorian Heritage Register as reference H140. HO17 is located partially within the area for potential investigation.

Heritage Overlay 47 (HO47) refers to the Former Church of Christ at 11 Stanton Street, Abbotsford. The Former Church of Christ is included on the Victorian Heritage Register as reference H141. HO47 is located within the area for potential investigation.

Heritage Overlay 313 (HO313) refers to the Charles Street Precinct, Collingwood. The precinct is not included on the Victorian Heritage Register. HO313 applies to Study Area A, B, C and the potential investigation area.



3.2 Strategic Document Review

3.2.1 Key Strategic Documents

Collingwood Town Hall Precinct - Urban Design · Framework, 2010

The Urban Design Framework (UDF) seeks to guide development in the precinct surrounding the Collingwood Town Hall. The UDF aims to provide a vision and framework that facilitates the opportunities to create a community/ civic hub, possible affordable housing, a people focused place and provide recommendations for policy, land use and built form responses.

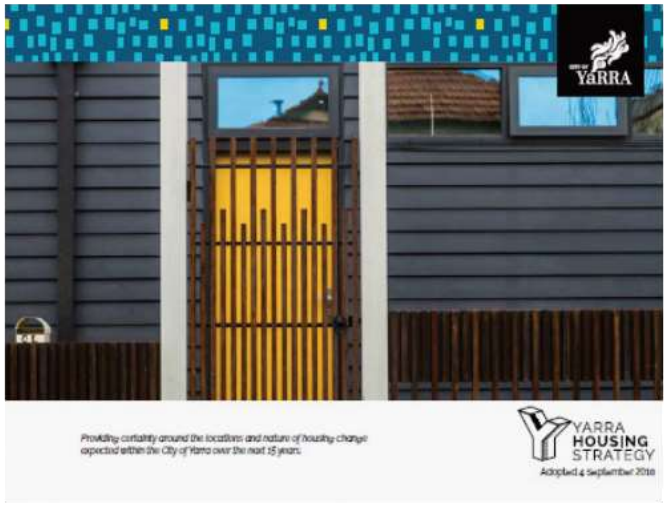
Specifically the UDF recommends:

- Retention of heritage buildings (Sailor and Soldier Memorial Hall).
- Investigate possible building setbacks for footpath or carriageway widening to Vere Street.
- Low rise street related facades and infill 2-3 storeys, along the front of the Vere Street properties.
- Medium rise built form which respects the Town Hall and other heritage buildings generally 3-4 storeys, within the remainder of the Vere Street sites.
- Set back higher elements behind the low rise development line, to minimise impacts on the existing views to the Town Hall and other heritage buildings and protect the amenity of public spaces.
- Optional building location within the existing car park area south of Vere Street residential sites - to be no higher than the dominant parapet line of the Town Hall. The UDF was Adopted by Council on 17 August 2010.

3.2.1 Key Strategic Documents [continued]

Yarra Housing Strategy 2018

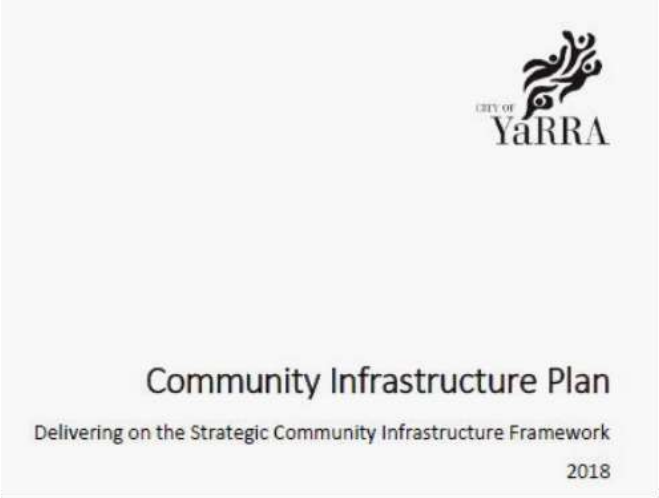
The Housing Strategy forecasts the projected growth and provides an overview of the existing housing context and recent trends in Yarra. The Strategy seeks to demonstrate sufficient housing land availability to accommodate projected growth for the next 15 years. The Strategy identifies the need for Yarra to maintain social and economic diversity, there needs to be the provision of more affordable housing in the municipality. Specifically the Housing Strategy identifies the residentially zoned land immediately surrounding the subject sites (A, B & C) as Minimal Change (residential areas that have limited capacity to accommodate future housing growth over time). The subject sites themselves are excluded as they are not currently within a residential zone. The Strategy was adopted by Council on 4 September 2018.



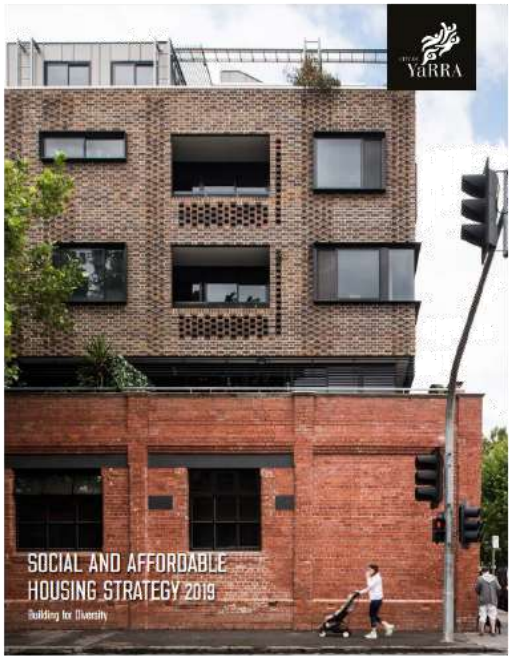
3.2.1 Key Strategic Documents [continued]

Community Infrastructure Plan 2018

The Community Infrastructure Plan outlines the current and future community needs through service trends and delivery models. Through the forecast of demographics, the Plan identifies current and future Community Infrastructure needs and opportunities for Council and/or stakeholders to respond to. Specifically the Plan identifies that there is opportunity for the CTH precinct to provide better integration between the community facilities in the precinct and stronger synergies between services. Currently some of the buildings cannot be used due to their condition (Sailors and Soldiers Memorial Hall), some are delivering services in stand-alone buildings that aren't consistent with current service-delivery preferences (Abbotsford Maternal and Child Health) and others would require significant redevelopment to meet future needs (Yarra Sculpture Gallery, Vere Street Factories and Collingwood Library).



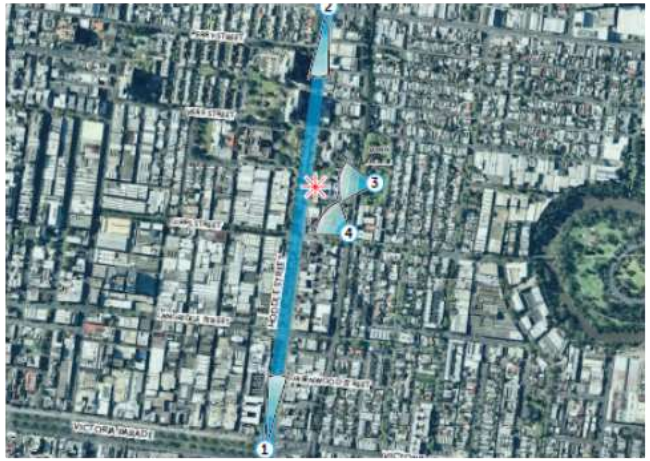
3.2.1 Key Strategic Documents [continued]



Social and Affordable Housing Strategy

The Social and Affordable Housing Strategy outlines the strategies Council proposes to employ to increase the supply of social and affordable housing and subsequently mitigate inequities in the contemporary local housing market. The Strategy focuses on increasing the supply of long-term social and affordable housing. Strategic Direction 2.2 Investigate the merits of gifting Council assets Direction 2.2.1 - Provide information to Council on the financial and practical feasibility of developing affordable housing through Council property assets, including air space, considering community benefit. Direction 2.2.2 - Within the framework of its Property Strategy, Council will give due consideration as to whether any assets earmarked for renewal or disposal could be suitable for affordable housing, and on what terms (commercial or non-commercial).

3.2.1 Key Strategic Documents [continued]



Yarra Landmarks & Views Assessment, 2019

The Yarra Landmarks & Views Assessment identifies primary and secondary views of multiple built form landmarks within the municipality. The clock tower is the dominant feature of the Collingwood Town Hall. Primary views include:

- South West Corner of Victoria Parade and Hoddle Street Intersection
- North West Corner of Johnston and Hoddle Street Intersection
- Gahan Reserve (Entry to reserve at the intersection of Park and Stanton Streets)

Sites in the vicinity are within C1Z and DDO2 applies, which does not restrict development height. There is therefore potential for nearby sites to be developed in a way that could impact on long range views of the Tower. There is a need to ensure that views of the upper portion of the Tower remain against a clear sky.

3.2.2 Other Relevant Documents

Existing allotment garden

Collingwood Town Hall Precinct Discussion Paper, 2018

The Collingwood Town Hall Precinct Discussion Paper details each site within the CTH precinct in detail and considers multiple options for the redevelopment and/or reuse of the site.

Specifically the Discussion Paper states:

- The building at 125 Vere Street is identified as a contributory heritage building, although the UDF goes on to acknowledge the: ...poor context setting to the weatherboard residence at 125 Vere Street. It is not adjoined by other contributory buildings or in an intact streetscape.
- The Sailors and Soldiers Memorial Hall is in need of work to secure the fabric of the building. The cost of these works is likely to be around $3 million.
- In 2017 Council engaged Architects Croxon Ramsay to understand options for the potential restoration and use of the building. The redevelopment of the Sailors and Soldiers Memorial Hall is an opportunity to provide for a modern, purpose designed library while restoring and maintaining part of Yarra's built form heritage.

3.2.2 Other Relevant Documents [continued]

Collingwood Town Hall Precinct Discussion Paper, 2018 [continued]

- The buildings could also be sold to provide an immediate return to Council. The following three options explore the sale of the assets in more detail. The three options available are:
  - secure the building, minimal maintenance
  - demolish the building
  - renovate and reuse the building
- Council refused a five storey application at 112-120 Vere Street which was subsequently approved at VCAT. An appropriate response for 117-123/127 Vere Street would be four storeys at street level, with a recessed fifth level which would provide a good balance between providing a development which is sympathetic to the precinct, meeting the UDF principles and achieving a reasonable financial return. There may an opportunity to consider up to six storeys adjacent to the raised train line.
- The land is currently zoned PUZ6 (Local Government) and any redevelopment of the site will require the land to be rezoned. Opportunity to apply a Development Plan Overlay over the site, to control the nature of any redevelopment and provide certainty to a developer as well as the community.
- Council, in 2013, explored interest in developing this land. An Expression of Interest (EoI) for a redevelopment of these buildings was put to market; two competitive responses were received. The EoI called for responses with heights of 5 and 8 storeys which was in some conflict with the UDF which suggests preferred heights of five storeys maximum.

3.3 Economic Overview

From a development perspective, the site is relatively well-located for redevelopment. Although frontage to Hoddle Street can represent a difficult proposition for development due to perceived amenity issues, reorientation of development towards Vere Street provides what should be an acceptable outcome. Key opportunities associated with development of the site include:

- An inner urban location where higher density forms of development are commercially viable and have a high level of market acceptance
- Proximity to Collingwood train station
- Proximity to Gahan Reserve
- Potentially, a site of sufficient scale that provides a commercially attractive development footprint

Existing apartment development - 114 Vere Street

3.3 Economic Overview [continued]

Development of the site is not however, without constraints. The extent to which the development footprint is compromised by laneways, heritage buildings or adjacent properties that are unable to be acquired, will reduce the size of the site and, as such, the scale of any subsequent development. In turn, this will reduce the commercial yield of the site and therefore the ability of the development to incorporate public facilities or a commercial yield for the public benefit (eg. affordable or social housing).

It is also important to note that, although the inner urban apartment market is clearly a commercially viable proposition, it is more viable in some areas than it is in others and sometimes viability can vary within relatively short distances.

This is true of Abbotsford where new apartments overlooking the Yarra River or in parts of Collingwood (both less than one kilometre from the subject site) appear to command residential apartment prices of up to $10,000/m2. In contrast, apartments in the recent development at 118 Vere Street (on the north side of Vere Street facing the subject site) are available for between $8,000 and $8,500/m2.

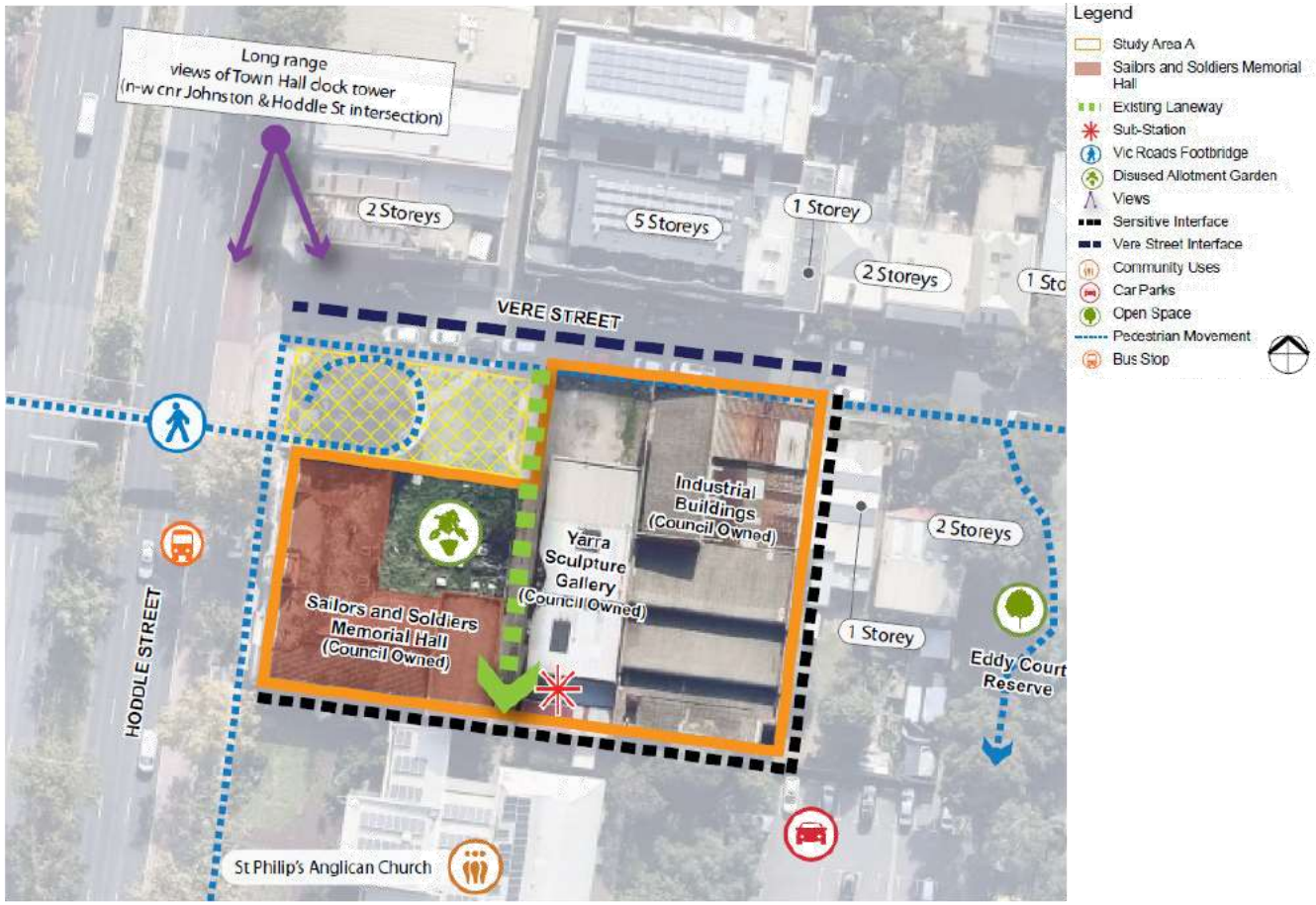
This still represents a relatively high sales figure per square metre but would not be described as a premium price for apartments. With construction and development costs at a similar rate across apartment projects regardless of location, the difference is likely to be reflected in underlying land values.

In terms of commercial office space development, the subject site is considered to represent a niche opportunity at the mid to lower end of the market. For reasons associated with perceived amenity and lack of exposure (except of Hoddle Street), the subject site is unlikely to represent an attractive proposition as a corporate office destination. Accordingly, the extent to which office space is incorporated may dilute the potential to incorporate public benefit uses.

The extent to which these preliminary observations apply will be tested as part of the high-level feasibility testing which forms part of this project.

In summary, the site is considered to represent a sound proposition for apartment development but is likely to prove less attractive to the market as a location for commercial office space. The extent to which a development model may incorporate uses and/or activities that provide a public benefit will be dependent on the development footprint and overall scale of the development outcome.

3.4 Existing Conditions



3.4.1 Study Area A

Limited to the Council owned properties at 152A Hoddle Street and 117-123 Vere Street. Includes Sailors and Soldiers Memorial Hall (a deteriorated hall erected in 1924, to commemorate those from Collingwood who enlisted for service in World War One), Yarra Sculpture Gallery and multiple warehouses.

The following attributes of Study Area A provide both issues and opportunities alike and form the basis for defining the contextual parameters for the scenario testing in the next stage of this Study.

3.4.1 Study Area A [continued]

Sailors and Soldiers, internal view

Sailors and Soldiers Memorial Hall

The Collingwood Sailors and Soldiers Memorial Hall was erected in 1924 to commemorate those from Collingwood who enlisted for service in World War One. It is covered by a precinct heritage overlay HO313 - Charles Street Precinct, Abbotsford - but is not recognised as an individually significant building.

The Collingwood Town Hall Precinct Discussion Paper, 2018 states that a building assessment was carried out in 2013 and assessed that 'internally, this building provides very poor quality accommodation and is in need of complete internal refurbishment'. It is estimated that the work needed to secure the fabric of the building is in excess of $3 million. It is also worth noting that the two storey rear extension is not part of the original construction.

A Collingwood Precinct Councillor Workshop was conducted in January 2020 (facilitated by Collaborations) where there was strong support for the investigation and potential retention of the Sailors and Soldiers Memorial Hall, particulary the honour roll, located centrally within the building.

3.4.1 Study Area A [continued]

Pedestrian footbridge

VicRoads Pedestrian Footbridge

A large pedestrian footbridge is located on a small parcel of land to the north-west of the study area site. This land and bridge is owned by VicRoads. This bridge is underutilised, is not DDA compliant and a signalised pedestrian crossing has been installed just south along Hoddle Street.

As part of this Study, the project team reached out to VicRoads to gauge their interest on the possibility to include this site within any redevelopment of the Town Hall precinct - due to it's strategic corner location. A Vic Roads representative indicated that there is currently no medium or long term plans for this land and/or bridge and its removal is not being considered.

Allotment Garden

A disused and somewhat overgrown allotment garden is located within the Sailors and Soldiers property boundary. This was formally used by the students of the Collingwood College located opposite the Town Hall precinct along Hoddle Street, to grow fruit and vegetables.

Existing Laneway

The existing north-south laneway off Vere Street provides access to the north side of the church and a City Power sub-station - located at the southern end. It is a designated roadway and it's closure is considered challenging.

3.4.1 Study Area A [continued]

Yarra Sculpture Gallery

Yarra Sculpture Gallery and Industrial Buildings

The properties at 117-125 Vere Street are interconnected industrial buildings and are Council owned. These properties consist of the Yarra Sculpture Gallery and vacant and somewhat derelict industrial buildings.

Approximate Site Area	
117 Vere Street (Yarra Sculpture Gallery)	489.9m^2
119 Vere Street (Factories)	880.4m^2
Sailors and Soldiers Memorial Hall	901.1m^2
Total (approx)	2271.4m^2

3.4.1 Study Area A [continued]

Yarra Sculpture Gallery and Industrial Buildings

Key constraints and opportunities for consideration for Study Area A are:

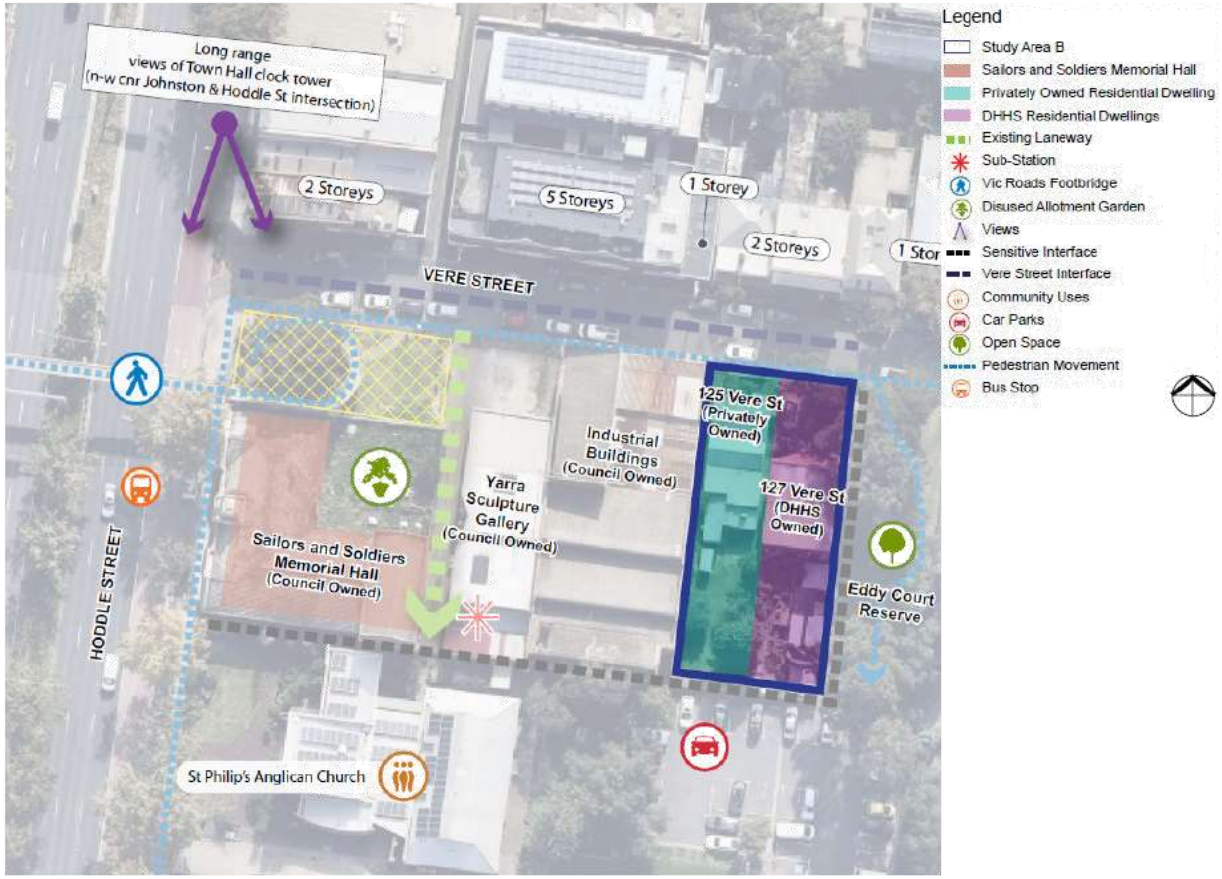
- Potential to include the VicRoads pedestrian footbridge located on the north-west corner of Hoddle and Vere Streets within a development envelope.
- Possible retention and reuse of the Sailors and Soldiers Memorial Hall, including 2 storey rear extension - this is noted to cost about $3 million as discussed in the Collingwood Town Hall Precinct Discussion Paper, 2018.
- Retain existing laneway (also provides access to sub-station) to the east of Yarra Sculpture Gallery.
- Consider sensitive interface of both St Philips Anglican Church to the south and the low scale residential buildings to the east along Vere Street - overshadowing, visual bulk, outlook, equitable development etc.
  - Consider long range views to Collingwood Town Hall Clock Tower - 'There is a need to ensure that views of the upper portion of the Tower remain against a clear sky', Yarra Landmarks & Views Assessment, 2019.
- Minimise visual dominance impacts to heritage buildings - Sailors and Soldiers Memorial Hall - respect existing street facade height.

3.4.2 Study Area B

Study Area B includes adjacent residential properties to the east along Vere Street. 125 Vere Street is privately owned and the property at 127 Vere Street is owned by the Department of Housing and Human Services (DHHS).

The following attributes of Study Area B provide both issues and opportunities alike and form the basis for defining the contextual parameters for the scenario testing in the next stage of this Study.

3.4.2 **Study Area B** [continued]



125 Vere Street

125 Vere Street is located to the east of the industrial buildings and is a privately owned single storey green weatherboard residential dwelling.

The Collingwood Town Hall Precinct Discussion Paper, 2018 notes that in 2016 as part of the consideration of a potential redevelopment of the larger precinct site, enquiries to purchase the privately owned property were commenced.

127 Vere Street

127 Vere Street is a two storey red brick dual occupancy residential building, owned by the Department of Housing and Human Services (DHHS). The Collingwood Town Hall Precinct Discussion Paper, 2018 identifies that DHHS have advised willingness to discuss the inclusion of this property into a potential redevelopment of the Town Hall precinct - subject to suitable conditions.

3.4.2 Study Area B [continued]

125 and 127 Vere st

Key constraints and opportunities for consideration for Study Area B are:

- Inclusion of both 125 and 127 Vere Street would provide a larger consolidated site and subsequently allow for the inclusion of more community services.
- To achieve an optimum outcome, both 125 and 127 Vere Street would need to acquired. Should this be pursued, conversations will need to be had with relevant land owners.
- Consider utility and future of Eddy Court Reserve – should this be redeveloped, the provision of a north-south pedestrian link should be maintained.

Approximate Site Area	
125 Vere Street	432.5m^2
127 Vere Street	439.5m^2
Total (approx)	872m^2

3.4.3 Study Area C

This Study Area indicatively includes Eddy Court Reserve to the east and the car park to the south. The car park is owned by Council and accessed by Eddy Court to the south. There is a portion of land at the rear of St Phillip's, which is owned by Council and occupied by the Church and is currently landscaped.

The following attributes of Study Area C provide both issues and opportunities alike and form the basis for defining the contextual parameters for the scenario testing in the next stage of this Study.

3.4.3 Study Area C [continued]

Car Park

The car park is owned by Council and accessed by Eddy Court to the south. There is a portion of land at the rear of St Phillip's, which is owned by the Council and occupied by the Church and is currently landscaped.

Eddy Court Reserve and Open Space

Eddy Court Reserve is a small grassed pocket park, abutting the train line. It features a handful of large canopy trees and a regularly used north-south pedestrian desire line from Vere Street. These trees are relatively recent eucalyptus plantings without particular significance. Directly south of the car park is a landscaped area that serves as somewhat of a forecourt to the Collingwood Seniors Hub.

Eddy Court Reserve

Approximate Site Area	
129 Vere Street (Eddy Court Reserve)	417.5m²
Church Occupied Land	230m²
Council Car Park (indicative)	1063.7m²
Landscaped Area (Council Owned)	687.1m²
Total (approx)	2398.3m²

Key constraints and opportunities for consideration for Study Area C are:

- The loss of Eddy Court Reserve in a proposed redevelopment of the precinct could potentially be offset by providing additional open space elsewhere within the study area.
- Inclusion of Council owned car park and Council owned/ Church occupied land, located at the rear of St Phillips.

4.0 Scenario Testing

The scenario testing aims to provide Council an understanding of the potential of the sites to provide for the social needs of its community, including a community facility and social and affordable housing, while achieving some economic sustainability.

Existing Context, 3D model

4.1 Urban Design Principles

Scenario testing project areas

Staging
The scenario testing considers four distinct site areas together, but also allows for their redevelopment in stages (rezoning pending) in case the construction of one or more areas is delayed;

Land Use
Initial economic analysis indicated that the highest and best use for the site is residential apartments. The proposed library and associated community facilities were deemed best located in Area 1 next to Hoddle Street;

Built Form
Initial scenario testing considered two development attitudes, conservative and progressive. The low scale scenarios replicate what has been approved nearby. The high scale scenarios accept that as a larger site with no direct residential abutments, the maximum height in the interior may rise. Although consideration was given to the testing of smaller areas of Council owned land only, a larger footprint, inclusive of all areas (1-4), was necessary to ensure a viable built form outcome, that included preferred setbacks, an enhanced public realm interface and improved north-south connectivity. In addition, a larger built form footprint was needed to achieve a financially feasible outcome that also delivered community infrastructure.

Open Space
All scenarios occupy the Council parcel of Eddy Court Reserve. Internal spaces within the proposed development scenarios compensate for this apparent loss.

4.2 Concept Feasibility Modelling and Assumptions

The option modelling adopts an approach in which development costs and sales revenue are derived from common assumptions across all options.

- Construction rates are used for car parking, residential, retail, office, and community construction. A construction rate of $3,200/ m2 has been applied to residential components. A construction rate of this order represents a figure at the lower end of a high-quality development outcome.
- A utilisation rate of 85% has been applied in the translation from gross floor area to net floor area (i.e. net saleable area) for the residential component to account for lifts, hallways and other unleasable or unsaleable areas.
- Car parking is provided as basement parking.
- Fixed fees and charges (expressed as a percentage of the sales price or the construction costs) associated with sales and marketing costs, development margins, contingencies, development margins, and other costs.
- A common approach to development costs is applied across each development option.
- A common development margin is applied across each development option.
- A value per m² for each land use have been adopted based on research of comparable areas, locations and building types.

This ensures the difference in outcomes for each option is driven by the development yields and outcomes, which are treated as variables in the concept modelling. The common assumptions are outlined in the Common Assumptions Table.

Beyond the usual construction and development costs associated with a development, the modelling allows for acquisition, demolition and redevelopment costs associated with specific development scenarios. These costs are detailed in the Variable Cost Assumptions Table.

Upon application of these assumptions, a residual land value is calculated.

Residual Land Value

The residual land value provides an indication of the value of the land attributed to the development scenario being tested. A negative residual land value indicates a poor market outcome in which a developer would not be willing to undertake the development until market conditions (for example, a significant increase in the apartment or office sale price per square metre) have improved sufficiently to indicate an improved commercial viability for that specific development option. Where a negative residual land value is expressed, it means that, in theory, the land has negative value based on that particular development scenario.

4.2 Concept Feasibility Modelling and Assumptions [continued]

Qualifications:
The outputs represent modelling based on "doing the development now". It does not take into account multi- year development timeframes that are usual in undertaking a development of this nature.

- As with most conceptual modelling, the outputs are sensitive to the inputs. If key variables such as the sales price/ m2 or the construction cost/ m2 are changed, the result can change quite significantly.

- Even so, with several variables held constant the modelling is useful in demonstrating how sensitive outputs are to changes in assumptions, including the impact of planning controls.
- It should be noted, the conceptual modelling is a high level exercise and is not a substitute for detailed development costing and feasibility testing of the kind required to advance a development to the next stage.

Common Assumptions Table

Assumption	Unit/description	Value	Note
Net Saleable Area Conversion Ratio			
Market housing	Proportion of GFA	85.0%	
Affordable housing	Proportion of GFA	85.0%	
Social housing	Proportion of GFA	85.0%	
Commercial	Proportion of GFA	85.0%	
Community	Proportion of GFA	85.0%	
Parking Requirements			
Market housing	Bays/m² of GFA	0.01250	1 bay per 80m²
Affordable housing	Bays/m² of GFA	0.01250	1 bay per 80m²
Social housing	Bays/m² of GFA	0.01250	1 bay per 80m²
Commercial	Bays/m² of GFA	0.03030	1 bay per 80m²
Average car bay size (incl. end of trip and circulation)	m² GFA	33.0	33 m² per bay
Revenue			
Market housing	$/m² NSA	$8,500	
Affordable housing	$/m² NSA	$5,525	65% of market housing
Social housing	$/m² NSA	$0	Returned to Council
Commercial	$/m² NSA	$6,250	
Community	$/m² NSA	$0	Returned to Council
Construction Costs			
Market housing	$/m² GFA	$3,200	
Affordable housing	$/m² GFA	$3,200	
Social housing	$/m² GFA	$3,200	
Commercial	$/m² GFA	$2,500	
Community	$/m² GFA	$2,800	
Basement carpark	$/m² GFA	$1,350	
Additional costs associated with development*			
Selling costs (sales and marketing)	Proportion of revenue	5.3%	
Developer's margin	Proportion of development costs	20.0%	

Note: *Not an exhaustive list of additional costs **Source:** Ethos Urban Research

4.3 Scenario Testing

Scenario Testing Areas

A number of scenarios were tested before arriving at a list of development assumptions that were deemed acceptable for the site and delivering the desired outcomes.

These are:

- Five (5) storey maximum building height
- Three (3) storey street wall height with upper level setbacks
- 20m approx. maximum built form depth (residential)
- Basement car parking (10 shared parking spaces)
- Repair of Soldier and Sailor's Memorial Hall (including fit-out)
- Development of VicRoads footbridge land located on the north-east corner of the site (this includes the construction of new bridge stairs with lift access)
- Retention of existing north-south laneway
- No commercial area (no offices)
- 1,069m2 of Community Facilities located on ground floor of Area 01 (including library)
- Acquisition of 125 and 127 Vere Street properties
- Retention of buffer along VicTrack land to the east
- Provision of east-west pedestrian links

Based on these parameters, 3 options/scenarios were prepared with varying proportions of social and affordable housing.

4.3.1 **Scenario A:** Provides a housing mix of 30% Social Housing and 20% Affordable Housing

Scenario A: 30% Social and 20% Affordable	
Basement Parking (10 Shared Cars)	330m²
Total Library & Community Facilities	1,069m²
Total Housing - 200 units	16,418m²
Social Housing (30%) - 60 units	5,009m²
Affordable Housing (20%) - 40 units	3,260m²
Market Housing (50%) - 100 units	8,149m²
Total	**17,487m²**

Scenario A: Provides a housing mix of 30% Social Housing and 20% Affordable Housing

30% Social Housing and 20% Affordable Housing equates to:

- 60 units (Social Housing)
- 40 units (Affordable Housing)
- 100 units (Market Housing)

Scenario A: Provides a housing mix of 30% Social Housing and 20% Affordable Housing

The table opposite outlines the concept feasibility outcomes for Scenario A. This includes the gross floor area, basement parking, net revenue, construction and other development costs, and the residual land value.

	Option A: 30% Social and 20% Affordable			
	Area 1 & 2	Area 3	Area 4	Total
Gross Floor Area (m2)				
Market Housing	-	3,341	4,808	8,149
Affordable Housing	-	1,337	1,923	3,260
Social Housing	5,009	-	-	5,009
Commercial	-	-	-	-
Community	1,069	-	-	1,069
Total	6,078	4,678	6,731	17,487
Basement Parking	10	-	-	10
Net Revenue				
Market Housing	-	$20.5 million	$29.6 million	$50.1 million
Affordable Housing	-	$5.3 million	$7.7 million	$13.0 million
Social Housing	-	-	-	-
Commercial	-	-	-	-
Community	-	-	-	-
Total	-	$25.9 million	$37.3 million	$63.1 million
Construction Costs				
Market Housing	-	$10.7 million	$15.4 million	$26.1 million
Affordable Housing	-	$4.3 million	$6.2 million	$10.4 million
Social Housing	$16.0 million	-	-	$16.0 million
Commercial	-	-	-	-
Community	$3.0 million	-	-	$3.0 million
Total	$19.0 million	$15.0 million	$21.5 million	$55.5 million
Other Development Costs				
Basement Carparking	$0.7 million	-	-	$0.7 million
Developers Margin	$4.8 million	$3.7 million	$5.3 million	$14.1 million
Acquisition Costs	-	$1.5 million	-	$1.5 million
Demolition Costs	$0.8 million	$0.2 million	-	$0.9 million
Repair of SSMH (inc. fit out)	$4.0 million	-	-	$4.0 million
Fees, contingency, insurance etc.	$5.1 million	$3.9 million	$5.6 million	$14.9 million
Total	$15.3 million	$9.2 million	$11.0 million	$36.0 million
Total Development Costs	$34.4 million	$24.2 million	$32.5 million	$91.5 million
Residual Land Value	-$34.4 million	$1.6 million	$4.7 million	-$28.1 million

4.3.2 **Scenario B:** Provides a housing mix of 20% Social Housing and 10% Affordable Housing

Scenario B: 20% Social and 10% Affordable	
Basement Parking (10 Shared Cars)	330m²
Total Library & Community Facilities	1,069m²
Total Housing - 200 units	16,418m²
Social Housing (20%) - 40 units	3,277m²
Affordable Housing (10%) - 20 units	1,642m²
Market Housing (70%) - 140 units	11,499m²
Total	**17,487m²**

Scenario B: Provides a housing mix of 20% Social Housing and 10% Affordable Housing

20% Social Housing and 10% Affordable Housing equates to:

- 40 units (Social Housing)
- 20 units (Affordable Housing)
- 140 units (Market Housing)

Scenario B: Provides a housing mix of 20% Social Housing and 10% Affordable Housing

The table opposite outlines the concept feasibility outcomes for Scenario B. This includes the gross floor area, basement parking, net revenue, construction and other development costs, and the residual land value.

	Option B: 20% Social and 10% Affordable			
	Area 1 & 2	Area 3	Area 4	Total
Gross Floor Area (m2)				
Market Housing	1,185	4,130	6,184	11,499
Affordable Housing	547	548	547	1,642
Social Housing	3,277	-	-	3,277
Commercial	-	-	-	-
Community	1,069	-	-	1,069
Total	6,078	4,678	6,731	17,487
Basement Parking	10	-	-	10
Net Revenue				
Market Housing	$7.3 million	$25.4 million	$38.0 million	$70.7 million
Affordable Housing	$2.2 million	$2.2 million	$2.2 million	$6.6 million
Social Housing	-	-	-	-
Commercial	-	-	-	-
Community	-	-	-	-
Total	$9.5 million	$27.6 million	$40.2 million	$77.3 million
Construction Costs				
Market Housing	$3.8 million	$13.2 million	$19.8 million	$36.8 million
Affordable Housing	$1.8 million	$1.8 million	$1.8 million	$5.3 million
Social Housing	$10.5 million	-	-	$10.5 million
Commercial	-	-	-	-
Community	$3.0 million	-	-	$3.0 million
Total	$19.0 million	$15.0 million	$21.5 million	$55.5 million
Other Development Costs				
Basement Carparking	$0.7 million	-	-	$0.7 million
Developers Margin	$4.8 million	$3.7 million	$5.3 million	$14.1 million
Acquisition Costs	-	$1.5 million	-	$1.5 million
Demolition Costs	$0.8 million	$0.2 million	-	$0.9 million
Repair of SSMH (inc. fit out)	$4.0 million	-	-	$4.0 million
Fees, contingency, insurance etc.	$5.1 million	$3.9 million	$5.6 million	$14.9 million
Total	$15.3 million	$9.2 million	$11.0 million	$36.0 million
Total Development Costs	$34.4 million	$24.2 million	$32.5 million	$91.5 million
Residual Land Value	-$24.8 million	$3.3 million	$7.6 million	-$13.9 million

4.3.3 **Scenario C:** Provides a housing mix of 10% Affordable Housing, Social Housing provided by others*

Scenario C: 10% Affordable / Social by others	
Basement Parking (10 Shared Cars)	330m²
Total Library & Community Facilities	1,069m²
Total Housing	16,418m²
Social Housing (BY OTHERS) - 40 units	TBC
Affordable Housing (10%) - 20 units	1,642m²
Market Housing (70%) - 140 units	11,499m²
Total	**14,010m² + Social**

Scenario C: Provides a housing mix of 10% Affordable Housing, Social Housing provided by others*

10% Affordable Housing, Social Housing provided by others* equates to:

- 40 units (Social Housing*)
- 20 units (Affordable Housing)
- 140 units (Market Housing)

* to be provided by others above/behind the community facilities

Scenario C: Provides a housing mix of 10% Affordable Housing, Social Housing provided by others*

The table opposite outlines the concept feasibility outcomes for Scenario C. This includes the gross floor area, basement parking, net revenue, construction and other development costs, and the residual land value.

	Option C: Social by others & 10% Affordable			
	Area 1 & 2	Area 3	Area 4	Total
Gross Floor Area (m2)				
Market Housing	1,185	4,130	6,184	11,499
Affordable Housing	547	548	547	1,642
Social Housing	-	-	-	-
Commercial	-	-	-	-
Community	1,069	-	-	1,069
Total	2,801	4,678	6,731	14,210
Basement Parking	10	-	-	10
Net Revenue				
Market Housing	$7.3 million	$25.4 million	$38.0 million	$70.7 million
Affordable Housing	$2.2 million	$2.2 million	$2.2 million	$6.6 million
Social Housing	-	-	-	-
Commercial	-	-	-	-
Community	-	-	-	-
Total	$9.5 million	$27.6 million	$40.2 million	$77.3 million
Construction Costs				
Market Housing	$3.8 million	$13.2 million	$19.8 million	$36.8 million
Affordable Housing	$1.8 million	$1.8 million	$1.8 million	$5.3 million
Social Housing	-	-	-	-
Commercial	-	-	-	-
Community	$3.0 million	-	-	$3.0 million
Total	$8.5 million	$15.0 million	$21.5 million	$45.0 million
Other Development Costs				
Basement Carparking	$0.7 million	-	-	$0.7 million
Developers Margin	$2.2 million	$3.7 million	$5.3 million	$11.4 million
Acquisition Costs	-	$1.5 million	-	$1.5 million
Demolition Costs	$0.8 million	$0.2 million	-	$0.9 million
Repair of SSMH (inc. fit out)	$4.0 million	-	-	$4.0 million
Fees, contingency, insurance etc.	$2.3 million	$3.9 million	$5.6 million	$12.1 million
Total	$9.9 million	$9.2 million	$11.0 million	$30.6 million
Total Development Costs	$18.4 million	$24.2 million	$32.5 million	$75.6 million
Residual Land Value	-$8.9 million	$3.3 million	$7.6 million	$2.0 million

4.3.4 Scenario Comparison Table

The table opposite compares the concept feasibility outcomes for all development scenarios. This includes the gross floor area, basement parking, net revenue, construction and other development costs, and the residual land value.

	Option A	Option B	Option C
Gross Floor Area (m2)			
Market Housing	8,149	11,499	11,499
Affordable Housing	3,260	1,642	1,642
Social Housing	5,009	3,277	-
Commercial	-	-	-
Community	1,069	1,069	1,069
Total	17,487	17,487	14,210
Basement Parking	10	10	10
Net Revenue			
Market Housing	$50.1 million	$70.7 million	$70.7 million
Affordable Housing	$13.0 million	$6.6 million	$6.6 million
Social Housing	-	-	-
Commercial	-	-	-
Community	-	-	-
Total	$63.1 million	$77.3 million	$77.3 million
Construction Costs			
Market Housing	$26.1 million	$36.8 million	$36.8 million
Affordable Housing	$10.4 million	$5.3 million	$5.3 million
Social Housing	$16.0 million	$10.5 million	-
Commercial	-	-	-
Community	$3.0 million	$3.0 million	$3.0 million
Total	$55.5 million	$55.5 million	$45.0 million
Other Development Costs			
Basement Carparking	$0.7 million	$0.7 million	$0.7 million
Developers Margin	$14.1 million	$14.1 million	$11.4 million
Acquisition Costs	$1.5 million	$1.5 million	$1.5 million
Demolition Costs	$0.9 million	$0.9 million	$0.9 million
Repair of SSMH (inc. fit out)	$4.0 million	$4.0 million	$4.0 million
Fees, contingency, insurance etc.	$14.9 million	$14.9 million	$12.1 million
Total	$36.0 million	$36.0 million	$30.6 million
Total Development Costs	$91.5 million	$91.5 million	$75.6 million
Residual Land Value	-$28.1 million	-$13.9 million	$2.0 million

4.3.5 Other Elements

The table below outlines additional costs relating to the development of the site. This includes additional basement parking, shared basement parking, extra development height and additional housing.

Item	Description	Total Development Cost	Revenue	Impact to RLV (order of magnitude)
Extra Height (to 4 & 8 storeys)	4-storey perimeter & 8-storey internal (Areas 2, 3 & 4). Additional 7,165m² (90 units) of Market Housing	$40.6 million	$50.0 million	$9.3 million
Additional basement parking	7,950m² basement parking (230 bays)	$15.6 million	$9.2 million	-$6.4 million
Shared basement parking	10 shared basement parking bays	$677,600	-	-$677,600
Additional housing				
Market housing - 1 bed	Additional 60m² dwelling	$400,500	$495,000	$94,500
Market housing - 2 bed	Additional 80m² dwelling	$537,700	$660,000	$122,300
Market housing - 3 bed	Additional 100m² dwelling	$669,400	$825,000	$155,600
Affordable housing - 1 bed	Additional 60m² dwelling	$379,800	$321,800	-$58,100
Affordable housing - 2 bed	Additional 80m² dwelling	$510,200	$429,000	-$81,200
Affordable housing - 3 bed	Additional 100m² dwelling	$634,900	$536,300	-$98,700

4.3.6 Street view from Gahan Reserve

4.3.7 Street view from St Philips Reserve looking North

Viewpoints were assessed to test visual bulk, overshadowing, public realm interfaces and to ensure the Collingwood Town Hall Clock Tower remained clear to the sky, as viewed from identified primary viewpoints.

4.3.8 Street view from Hoddle Street (with trees)

4.3.9 Street view from Hoddle Street (without trees)

Viewpoints were assessed to test visual bulk, overshadowing, public realm interfaces and to ensure the Collingwood Town Hall Clock Tower remained clear to the sky, as viewed from identified primary viewpoints.

4.3.10 Street view from Hoddle Street pedestrian bridge

4.3.11 Street view from Vere Street looking south alongside railway

Viewpoints were assessed to test visual bulk, overshadowing, public realm interfaces and to ensure the Collingwood Town Hall Clock Tower remained clear to the sky, as viewed from identified primary viewpoints.

5.0 Community Infrastructure Concept

Through the scenario testing a number of site utilisations were investigated, with massing studies and economic assessments prepared. This work indicated that a genuine commercially viable solution was going to be difficult to deliver, if the arrangement was to fully fund the Community Infrastructure components.

A more detailed exploration of Community Infrastructure components, with consideration of re-purposing the Sailors and Soldiers Memorial Hall for community use was completed by Mantric Architecture.

5.1 Alternate Approach

Alternate urban design approaches were subsequently investigated to ensure the Community Infrastructure intervention at the Sailors and Soldiers Memorial Hall site could be undertaken independently of the larger development. Recognising that limited height may impact other desirable urban design outcomes, a reduced footprint with increased height (floor levels) was explored, to achieve a similar over-all commercial yield objective. To undertake this a number of 'design drivers' were identified to inform the decision making, these included;

1. Create a 'buffer zone' around the Community Infrastructure site, to create a strong community identity and improve opportunities for an environmentally sustainable design response (access to daylight, natural ventilation, solar access, etc)
2. Eliminate ALL housing stock in close proximity, or integrated with, the Sailors and Soldiers Memorial Hall to protect the highly valued Hoddle Street view lines to Collingwood Town Hall and facilitate a more sensitive design outcomes for the Heritage Place.
3. Reduce the physical extent of 'frontages' immediately on Vere street, rather than setting back the entire building line – with the objective of creating more open view lines into the precinct, thereby improved passive surveillance and sense of personal safety.
4. Maximise utilisation/yield from the high value residential portions of the site – on the north and east sides. This corner of the site maximises setback from Collingwood Town Hall, and may offer increased building height, while still meeting the intent of the UDF.
5. Maximise setbacks from Hoddle street to all residential blocks, and use their built form to reinforce the natural pedestrian 'desire lines' through the site (ie access to the train station).

The above design drivers have informed the precinct test shown adjacent – Figure 1.

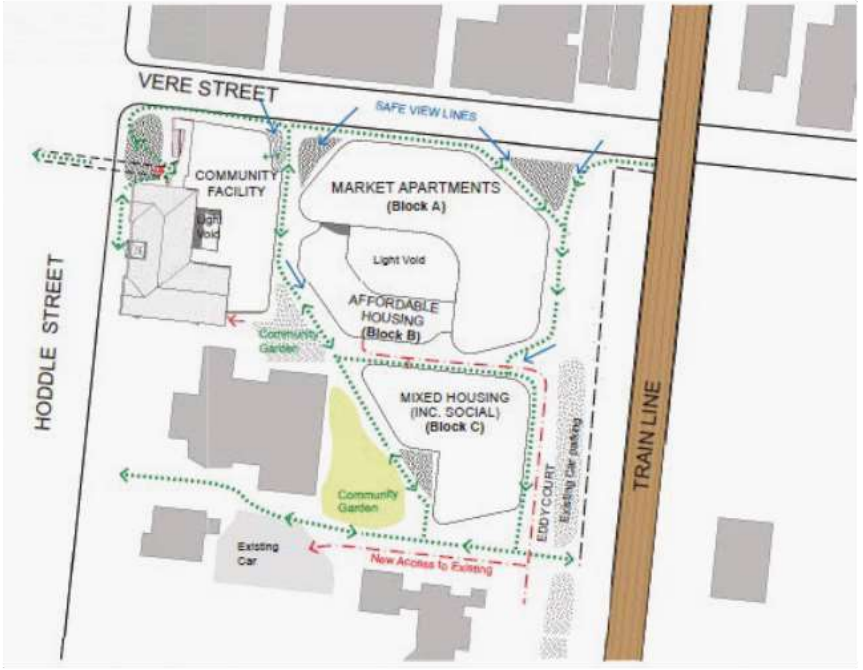


Figure 1: Alternate Urban Design Rationale: Reduced Footprint & Additional Height

5.1 Alternative Approach [continued]

The 'smaller footprint' approach has positively contributed to the public realm offer, when compared to the 'Reduced Height/Maximum Footprint' scenarios. This solution offers pedestrians an improved journey through the precinct by;

- Creating generous arrival nodes on Vere street, through the use of building recesses and tapering to the frontage of the residential built form. This also significantly improves visual connection into the precinct.
- Reducing the length of 'lane-way enclosure' by tapering the footprints toward the south
- Increasing the open space offer over the pedestrian journey (north/south), and provide more immediate passive break-out spaces connected to the various building elements.
- The tapered footprint increases the setbacks to the heritage buildings in the precinct and maximises the viewing buffer so the existing building stock can be better appreciated.

This reduced footprint approach requires consideration of increased over-all building height to some areas. The UDF objectives have provided guidance in regard to the Town Hall, and given this greater importance over other setback recommendations. After several test scenarios, it became evident that the required yields needed building dwelling capacity over six to ten levels. In addition, the tapered footprints lend themselves to greater height to the north and lower heights to the south, as the development approaches the Town Hall and Train Station.

While the building height is increased in some zones, the testing demonstrated that the site can tolerate greater height if carefully managed and limited to the northern areas. By permitting additional height, and reducing the footprint, there are major improvements to the 'human experience' at ground level.

With further design examination it would be reasonable to assume the visual bulk and scaling would be refined and improved further. Materiality will also play a key role in the building form and mass achieving visual integration into the precinct.

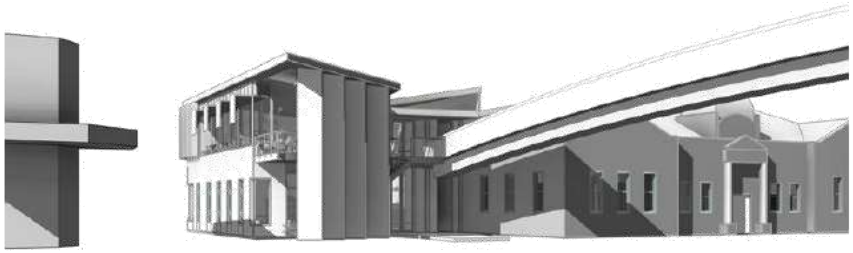
5.2 Sailors and Soldiers Memorial Hall

The following drawings depict the concept plans for a two level expansion, integrated with the existing Sailors and Soldiers Memorial Hall.

Through the elimination of all residential dwellings from the Sailors and Soldiers Memorial Hall site, a more appropriate and sensitive design response has been made possible for the Community Facility. Importantly, the adopted approach protects as much as possible of the existing heritage building envelope and retains the visual integrity of its form and historical presence on Hoddle Street. The existing pedestrian over-pass is assumed to be a permanent feature, however has been modified on its eastern landing side, so pedestrians arrive at the new Community Infrastructure level one terrace – where direct access to the community facility is available. This terrace would retain full 24hr public access via new stairs and lift.

The preliminary design investigations identified access issues to the existing heritage building, which could not be solved without unacceptable modification to the heritage façade and internal room arrangements. For this reason a new entry is proposed at the north/west corner (Hoddle St & Vere St), currently occupied by the radial ramp at the eastern end of the pedestrian over-pass bridge. This entry location to the community facility will create a clear Civic Arrival on Hoddle street and thereby deliver greater public presence. It must be noted that this solution will require use of land not owned by Council. Early engagement with the relevant government agency, responsible for the pedestrian bridge, will be imperative.

The precinct design response seeks to ensure the Community Infrastructure is not constrained, or negatively impacted by, the residential components of the broader development opportunity. This is a critical consideration when deliberating the merits of increased heights to achieve a viable dwelling yield. The alternate approach places greater importance on the Hoddle street scale, so the primary streetscape is protected.

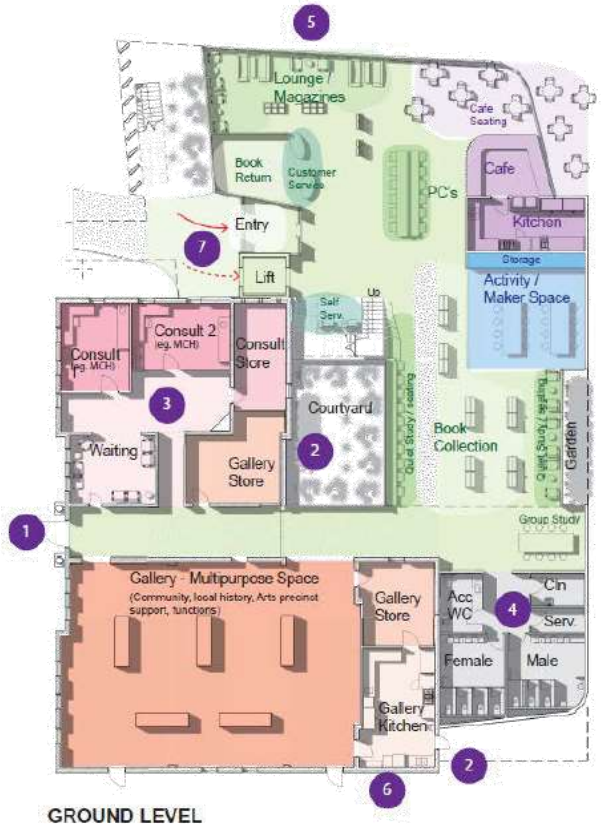


Entry View - Hoddle Street

5.2.1 Concept Plans

Further sketches and costings were created for a potential community facility in and adjacent to the Sailors and Soldiers Memorial Hall. The plans assume a multipurpose/ flexible library with space for the arts, consulting suites and a cafe.

This high level work provides Council with an estimated costing and illustrations that seek to restore the sites heritage fabric and deliver community infrastructure.



GROUND LEVEL

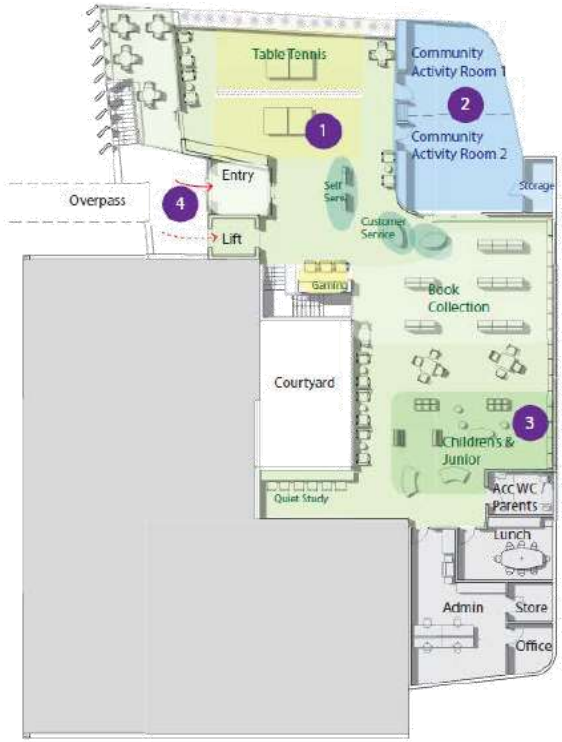
AREAS
Gallery / Multipurpose Space : 200 sqm
Gallery Storage : 40s qm
Gallery Kitchen : 28 sqm
Consulting area : 118 sqm

Kitchen and Cafe area : 36 sqm
Cafe Seating : 35sqm internal, 15 sqm external

General library : 320 sqm
Activity / Maker Space : 45 sqm

1. The existing entry has stairs, so it is not possible to make this a DDA compliant entry
2. The proposed new building is to be set back from the edges of the Sailors and Soldiers Memorial Hall building to show the corners of the building. This is a heritage consideration to maintain a good connection to all sides of the building. Including an internal light-court will bring natural light into the deepest footplate. This area could house meeting areas, or reading areas
3. The 'non' hall portion of the Sailor and Soldiers building lends itself to smaller room functions such as Consulting rooms and storage. This area could also house the Library Admin, staff room and general library storage to free up more space within the new building and library proper.
4. Amenity provisioned to suit large gatherings within the Gallery area, as well as for the library
5. Northern orientation - Lounge seating and cafe seating - visible from Main Streets.
6. Gallery Kitchen to have external access (existing exernal door), and to provide a 'warm up' function rather than a 'cooking' function.
7. Lift and entry located to provide access for those entering from the overpass and Hoddle St, as well as from localised parking
8. Collection size based on Collingwood (8-10,000 books)

5.2.1 Concept Plans [continued]



FIRST LEVEL

AREAS
Admin : 53 sqm
Lunch room : 20 sqm
General library : 335 sqm
Community rooms : 70 sqm

1. Gaming and Teen area visible from Hoddle and Vere Street to encourage use. Close connection to overpass from adjacent Housing Commision Buildings and School
2. Community Rooms openable into one space and as openable into surrounding areas as possible
3. Children's area located upstairs to be adjacent Community Activity rooms for storeytime. Alternately, if it was to be located downstairs, the entire adult and teen book collection would be upstairs with good separation between Teens and Children's areas
4. First floor level to align with renovated overpass. New stairs to be installed in lui of curved ramp with access to lift.

The purpose of the library layout is to establish what will fit within the nominated community building area. The brief of options that may go into this building included :
- Digital spaces, maker space, 3d printing, technology loan etc
- Community Activity rooms and program spaces for a large variety of uses (family, craft, sewing, Storeytime etc)
- Arts Precinct support - performance and exhibition areas
- Multipurpose spaces
- MCH or general consulting rooms
- Gaming areas, Teen spaces
- 24 hour access
- Storeytime
- Study Space

5.2.2 Indicative costing

City of Yarra
CTH Precinct - Community Infrastructure Investigation

Preliminary - Opinion of Probable Cost
15-Jan-21

Preliminary Areas Analysis

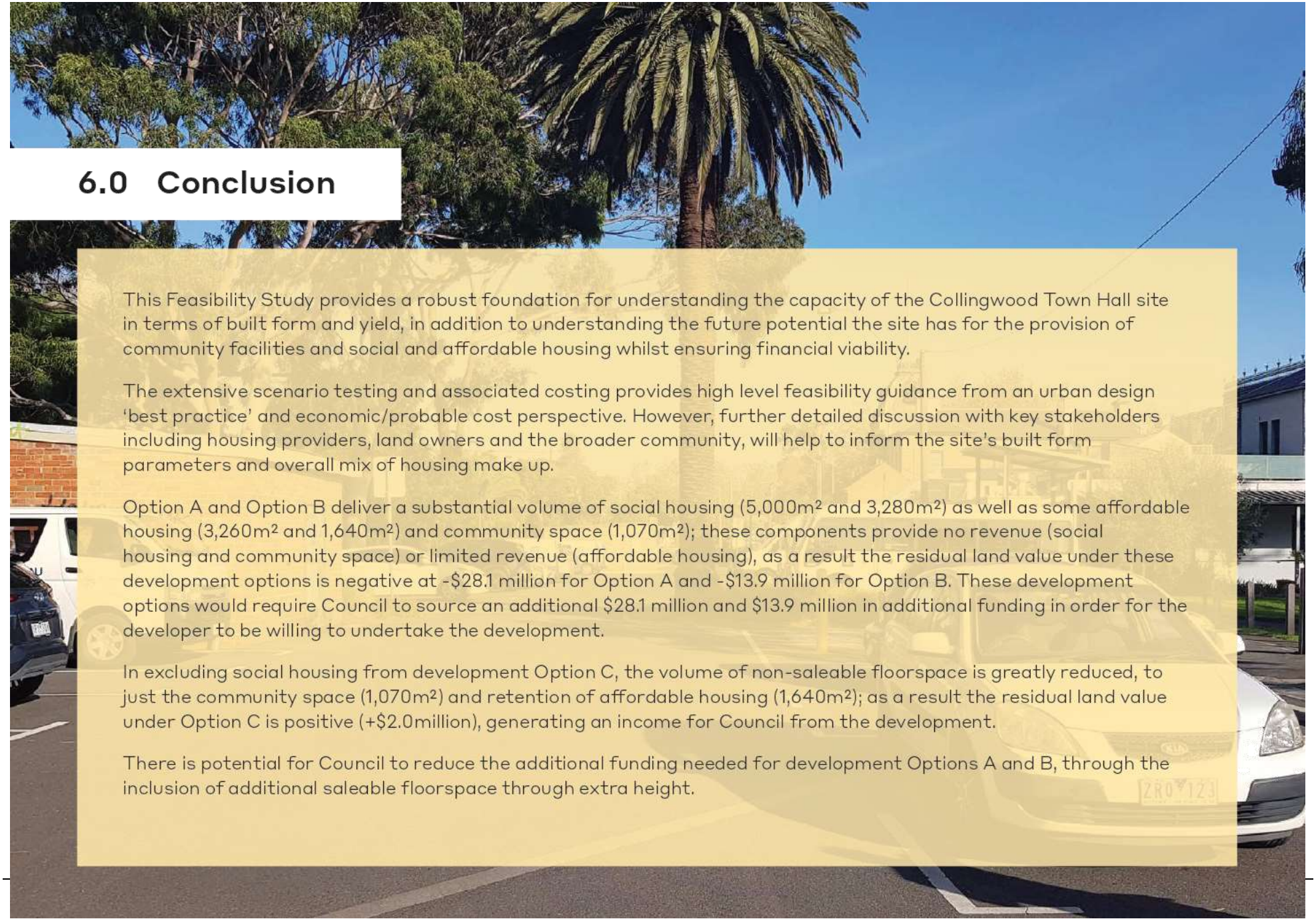
		AREA	RATE	ALLOWANCE	
ZONE 1	(Heritage Refurb)	430.00	$2,100.00	$903,000.00	
ZONE 2	(Multi-Purp Addition)	410.00	$3,500.00	$1,435,000.00	
ZONE 3	(Amenity Addition)	129.00	$3,800.00	$490,200.00	
ZONE 4	(Multi-Purp Addition)	447.00	$3,600.00	$1,609,200.00	
ZONE 5	(Amenity Addition)	82.00	$4,000.00	$328,000.00	
ZONE 6	(Building Services)	28.00	$2,700.00	$75,600.00	
Wall Grossing		76.30	$3,200.00	$244,160.00	
Circulation		8.00	$3,200.00	$25,600.00	
Sub-Total		1,610.30		$5,110,760.00	Rate : $3,173.79
Car Parking (Nil)		0	$3,500.00	$0.00	
Heritage Remedial Restoration		allow		$3,000,000.00	
Lift & Feature Stair (Dual Door)		allow		$350,000.00	
Escape Stair		allow		$60,000.00	
Level 1 Terrace		25	$2,500.00	$62,500.00	
Ex. Over-pass Modification		allow		$250,000.00	
Feature Shading Blades		allow		$100,000.00	
4 x Auto doors		4	$5,000.00	$20,000.00	
Landscaping (inc Nth Planter, L1)		allow		$50,000.00	
Audio Visual Equip		allow		$175,000.00	
Furniture, Signage & Equip				$350,000.00	
Book Collection		Existing		$0.00	
Mechanical Roof Well		60	$1,500.00	$90,000.00	
Site Service		allow		$25,000.00	
Authority			1.00%	$56,907.60	
Sub-total				$4,589,407.60	
Design Contingency (5%)				$485,008.38	
Professional Fees (9%)				$873,015.08	
Construction Contingency (5%)				$509,258.80	
Escalation (12 month only 3%)			3.00%	$347,023.50	
ESD Allowance (6%)			6.00%	$335,746.10	
Construction Total				$12,250,219.46	Rate : $7,607.41

Exclusions:

GST	Demolition
Bored Piers & piles	Hazardous Material Removal
Retaining wall	Contaminated Soil
Up-grade to site service	Road works & cross overs
Works beyond site	Land acquisition

Qualification
The above opinion of probable cost has been prepared for initial discussion and budgetting only. Further investigation and design analysis is required to verify this opinion. Verification should be undertaken by a suitably qualified Quantity Surveyor.

NOTE:
The Remedial Heritage Restoration cost have been adopted from the 2018 Discussion Paper, escalated from $2,757,000 to $3,000,000. The 2019 Bonacci report suggests additional costs could be incurred over time - this risk has not been accounded for in the above opinion.



6.0 Conclusion

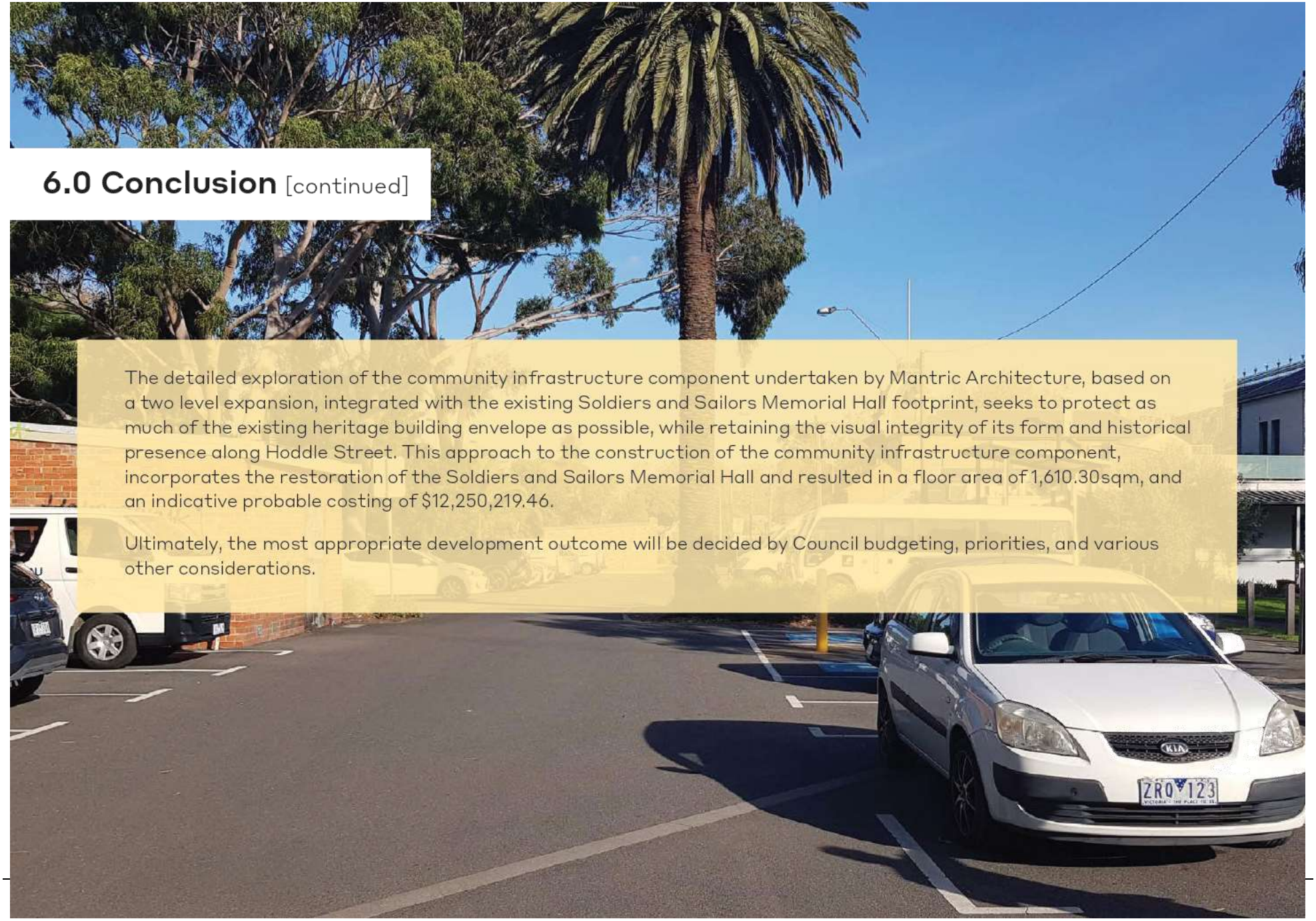
This Feasibility Study provides a robust foundation for understanding the capacity of the Collingwood Town Hall site in terms of built form and yield, in addition to understanding the future potential the site has for the provision of community facilities and social and affordable housing whilst ensuring financial viability.

The extensive scenario testing and associated costing provides high level feasibility guidance from an urban design 'best practice' and economic/probable cost perspective. However, further detailed discussion with key stakeholders including housing providers, land owners and the broader community, will help to inform the site's built form parameters and overall mix of housing make up.

Option A and Option B deliver a substantial volume of social housing (5,000m² and 3,280m²) as well as some affordable housing (3,260m² and 1,640m²) and community space (1,070m²); these components provide no revenue (social housing and community space) or limited revenue (affordable housing), as a result the residual land value under these development options is negative at -$28.1 million for Option A and -$13.9 million for Option B. These development options would require Council to source an additional $28.1 million and $13.9 million in additional funding in order for the developer to be willing to undertake the development.

In excluding social housing from development Option C, the volume of non-saleable floorspace is greatly reduced, to just the community space (1,070m²) and retention of affordable housing (1,640m²); as a result the residual land value under Option C is positive (+$2.0million), generating an income for Council from the development.

There is potential for Council to reduce the additional funding needed for development Options A and B, through the inclusion of additional saleable floorspace through extra height.



6.0 Conclusion [continued]

The detailed exploration of the community infrastructure component undertaken by Mantric Architecture, based on a two level expansion, integrated with the existing Soldiers and Sailors Memorial Hall footprint, seeks to protect as much of the existing heritage building envelope as possible, while retaining the visual integrity of its form and historical presence along Hoddle Street. This approach to the construction of the community infrastructure component, incorporates the restoration of the Soldiers and Sailors Memorial Hall and resulted in a floor area of 1,610.30sqm, and an indicative probable costing of $12,250,219.46.

Ultimately, the most appropriate development outcome will be decided by Council budgeting, priorities, and various other considerations.

8.3 Recreation Services - Fees, Charges and Allocations

Executive Summary

Purpose

The purposes of this Council report are:

(a) To present the proposed policy for the allocation of sportsgrounds and facilities in Yarra (Attachment 1 - *Draft Sportsgrounds and Facilities Allocation Policy 2021*);

(b) To present the findings of the fees and charges review undertaken by the Recreation and Leisure Services Branch, as well as the pricing options and Officer recommendations arising from the review; and

(c) To seek adoption of the *Sportsgrounds and Facilities Allocation Policy (2021)* and endorsement of the Officer recommendations resulting from the fees and charges review.

Key Issues

The Recreation and Leisure Services branch manage Yarra's 19 sportsgrounds and 25 pavilions (facilities). These sportsgrounds and facilities are utilised by over 50 clubs for the facilitation of community sport and active recreation, to an estimated 8,000 participants on an annual basis.

The current allocations process for Council managed sportsgrounds and facilities is based upon criteria that no longer aligns with Council's values including inclusion, diversity and accessibility goals; nor does it support State Sporting Associations' safe sport, good governance and integrity frameworks. Consequently, Recreation and Leisure Services has conducted a review of the allocations process and developed a *Draft Sportsgrounds and Facilities Allocation Policy (2021)* for consideration.

Further, the review has highlighted that the fees and charges to hire Yarra's sportsgrounds and facilities are not aligned with the Council adopted *City of Yarra Pricing Policy (2019),* nor do they address industry norms around cost recovery, asset management and stewardship. On this basis, Officers have developed options and structures to better align fees and charges with the Council adopted Policy, and to meet broader Council objectives.

Financial Implications

Due to the significant level of discounts applied to allocations for existing Yarra clubs and hirers, the baseline level of cost recovery currently being achieved by Council is extremely low (average 2.28%). Officers believe that a key outcome should be to reach 20% cost recovery, per industry standards and norms. If the current process and fees and charges structure continues, the result will be a failure to properly manage and maintain Yarra's sportsgrounds and facilities for future generations.

Officers acknowledge that the impacts of implementing the proposed fees and charges structure that aims to achieve a minimum 20% cost recovery will financially impact Yarra's existing seasonal clubs and hirers. Attachment 4 – *Yarra Sports Club Impact Study 2020*, demonstrates the level of cost recovery being achieved by the current fee structure, discounting mechanism and process and the impacts the proposed fees and charges structure will have on existing Yarra seasonal clubs.

Officers recommend taking a three-year staged approach to the implementation of the proposed fees and charges. Officer analysis (Attachment 4 – *Yarra Sports Clubs Impact Study 2020*) notes that the implications of taking a staged approach would result in the average increase in facility hire fees paid by a club being $3,054 in year 1. It should be noted that this figure does not include additional surcharges for lighting (currently paid for by clubs playing at facilities with lighting) or turf wicket provisions, which would be charged separately and not subject to Council subsidies.

Officers' proposed application of a staged approach to implementing the recommended fee structure (Option 2 - Categorised Fee) would result in a minimum 20% cost recovery being achieved across all hireable sportsgrounds and facilities, even in the event of clubs and hirers achieving the highest level of subsidy, which is capped at 80% in year 3 of implementation. The below table shows the financial outcomes of the proposed three-year implementation strategy;

Table 5 – Proposed three-year implementation impacts

Cost Recovery	Year 1 Cost Recovery	Year 2 Cost Recovery	*Year 3 Cost Recovery	2019 Cost Recovery
Winter Sportsgrounds	$22,514.66	$33,771.65	$45,676.09	$8,048.20
Winter Pavilions	$18,493.68	$27,725.46	$36,967.28	$0.00
Summer Sportsground	$16,819.55	$25,229.33	$33,639.10	$8,854.12
Summer Pavilions	$16,025.40	$24,025.05	$32,033.40	$0.00
TOTALS	$57,827.89	$110,751.48	$148,315.87	$16,902.32

**Year 3 cost recovery minimum is based upon all hirers receiving the maximum 80% subsidy available via the sportsgrounds and facilities allocation criteria. However, in year 3, all clubs will not automatically receive the maximum subsidy as in year 1 and 2 of the implementation plan and will attract a subsidy directly linked to their actual allocation score.*

The proposed *Draft Sportsground and Facilities Allocation Policy (2021)* outlines the essential criteria and detailed framework for the weighting of applications for the use of Yarra's sportsgrounds and facilities, which includes the key guiding principle of 'Financial Management'. This key principle within the framework is intended to identify a club's fiscal capacity to pay the fees and charges associated with an application to use Yarra's sportsgrounds and facilities. However, if a club and/or hirer is able to demonstrate exemplary performance, via the allocation criteria framework, but is unable pay the associated hire fees in the ordinary full sum transaction process, Officers recommend that the current practice of extending the club payment flexibility via the introduction of a payment plan, be retained. The current practice sees the terms of any flexible payment plan initially negotiated by the Recreation unit and approved by the Director City Works and Assets.

PROPOSAL

That:

(a) Council endorse the *Draft Sportsgrounds and Facilities Allocation Policy (2021)* via a three-year implementation approach; and

(b) Council adopt the fees and charges structure Option 2 – Categorised Fees, via a three-year implementation approach and these be included in the Fee Schedule as part of the 2021/22 Budget, to be implemented from 1 July 2021.

8.3 Recreation Services - Fees, Charges and Allocations

Reference	D21/24199
Author	James Pratt - Recreation and Leisure Services
Authoriser	Director City Works and Assets

Purpose

1. The purposes of this Council report are:

   (a) To present the proposed policy for the allocation of sportsgrounds and facilities in Yarra (Attachment 1 - *Draft Sportsgrounds and Facilities Allocation Policy 2021*);

   (b) To present the findings of the fees and charges review undertaken by the Recreation and Leisure Services Branch, as well as the pricing options and Officer recommendations arising from the review; and

   (c) To seek adoption of the *Draft Sportsgrounds and Facilities Allocation Policy (2021)* and endorsement of the Officer recommendations resulting from the fees and charges review.

Critical analysis

History and background

2. The Recreation and Leisure Services branch manage Yarra's 19 sportsgrounds and 25 pavilions (facilities). These sportsgrounds and facilities are utilised by over 50 clubs for the facilitation of community sport and active recreation, to an estimated 8,000 participants on an annual basis.

3. The Recreation and Leisure Services Branch has conducted a review into Yarra's sportsgrounds and facilities' allocation processes and identified the need to develop a formal policy that brings the processes into line with industry standards and practices, aligns them with Council policy, values and objectives, provides transparency and meets the expectations of current and prospective clubs, users and/or hirers of Yarra's sportsgrounds and facilities.

4. Historically, Yarra's sportsgrounds and facilities have been allocated to clubs, users and/or hirers based upon criteria that no longer aligns with Council's values including inclusion, diversity and accessibility goals; or supports State Sporting Associations' safe sport, good governance and integrity frameworks; or addresses industry norms around cost recovery, asset management and stewardship.

5. The proposed allocation policy (Attachment 1 - *Draft Sportsgrounds and Facilities Allocation Policy (2021)* aims to progress Council's wider strategic objectives, positively influence the culture and behaviour of Yarra's clubs, users and/or hirers and responsibly manage community assets, per industry norms, by mandating fair, transparent minimum standards and qualifying criteria, so as to be eligible to receive allocation at a Yarra sportsground or facility.

6. Council adopted the *City of Yarra Pricing Policy in 2019;* this Policy provides guidance to the way fees and charges should be set for Council services. As part of the allocation review process, the officers undertook an extensive review of current fees and charges for the hire of Yarra's 44 sportsgrounds and facilities, in line with this Policy.

7. Industry standards and practices indicate that fees and charges in other jurisdictions are set based upon the principle of seeking to recover a percentage of the cost required to provide and maintain the facility. Research shows the level of cost recovery to hire Council-owned sportsgrounds and facilities is typically set at 20% of the costs to provide and maintain the sportsground and facility (Attachment 2 – *Local Government Benchmarking*). Analysis of the 2020 Winter and Summer seasonal allocations and fees paid by clubs and hirers in Yarra shows the level of cost recovery achieved in that period averaged 2.28%, noting, many Yarra clubs and hirers historically receive a 100% discount on hire fees.

8. Officers noted that the current fees and charges do not adhere to the adopted *City of Yarra Pricing Policy (2019)*. Yarra's current practice is an outlier to local government standards, and there is a demonstrated need to develop options that reflect Councils adopted Policy and to recover fair costs to provide and maintain sports facilities in Yarra, now and into the future.

9. Officers have developed three possible fees and charges structure options (Attachment 3 – *Sportsgrounds and Facilities Cost Assessments*), which establishes the cost of providing and maintaining Yarra's sportsgrounds and facilities, and seeks to implement a fees and charges structure based upon a percentage of cost recovery, as well as providing a lever to motivate and effect cultural change in clubs and hirers that is aligned with key guiding principles related to Council's values of inclusion, diversity, governance and community.

10. Officers recommend a 'Categorised Fee' (Option 2 outlined below), which establishes four separate categories of facilities based on quality/standard, capacity and activation purpose, with each category of facility having its own per-hour fee, per industry norms, standards and practices.

11. The proposed fees and charges structures within this report are designed to meet the objectives within Council's *Pricing Policy (2019)*.

12. Historically, existing sport clubs and/or hirers of Yarra's sportsgrounds and facilities have been given discounts based on the current allocation criteria, which in the majority of cases has led to almost 100% of their facility hire fees being waived.

13. Officers recognise that this review, and the options contained within, would require clubs and hirers to pay a fee for the use of these facilities that will be, at a minimum, 20% of the cost of their usage hours, which would be more than existing clubs and hirers are currently paying. However, Officers believe adjusting the allocation criteria would significantly increase the cultural, behavioural and governance performance of clubs and hirers who hire Council facilities, as well as align fees and charges with industry practices, which in turn benefits the community.

14. As a result of the draft policy and proposed recommendations, there would be meaningful increases in the expectations placed on clubs and hirers, as well as a requirement for hire fees to be paid.

15. Officers have carefully considered the likely ramifications on existing clubs and hirers and have sought to mitigate the impacts via a staged implementation approach to both the *Draft Sportsgrounds and Facilities Allocations Policy (2021)* and the proposed pricing structure. However, it must be acknowledged, that these recommendations if adopted, would result in seasonal clubs and hirers paying a minimum of 20% of the cost of their usage hours, due to Officer's proposal to realise a fair and equitable rate of return for the provision and maintenance of Yarra's 44 sporting facilities. The revenue generated from this contribution would assist in ensuring that appropriate standards of maintenance and reasonable future investments into these facilities are achieved.

Discussion

16. The current allocation process for seasonal sportsground and facility hire was established in 2010 and is no longer fit for purpose, is difficult for Officers to apply consistently and does not progress Council's objectives in relation to inclusion, diversity and governance principles, as required in Council's *Pricing Policy (2019)*. Moreover, the current process removes the ability for Officer's to constructively and positively influence club and/or hirer services, behaviour or culture.

17. Additionally, traditional sports, such as Australian rules football, football (soccer) and cricket, dominate the use of many Yarra facilities, which reinforces patterns of demand (i.e. when certain sports are visible, accessible and available, then people are more likely to participate in that sport, rather than sports that are not). The current allocation process has limited levers to promote and encourage a wider variety of organised sports, for instance new and/or emerging sports like lacrosse, touch rugby, fistball, ultimate frisbee, etc.

18. Yarra sportsgrounds and facilities are nearing their usage capacity. Compounding the issue is the fact there are many well established clubs and users within Yarra, which provides limited opportunity for new applications from sports, clubs and hirers. This is further exacerbated by the current allocations process that places a high weighting (30%), and therefore value, on a tenancy record and/or historical length of tenure, which has the potential to continue to lock out new applicants, sports, clubs and hirers with no history, that potentially might offer Yarra residents new activities and opportunities.

19. The current allocation process also does not incentivise clubs and hirers to actively drive introductory opportunities or modified activities and sports for people of all ages and abilities. This results in a lack of diversified sport opportunities that would ordinarily act as a mechanism to encourage participation and allow everyone to enjoy sport and recreation regardless of age, ability, etc. The provision of active recreation opportunities for members of underrepresented groups, those with a disability, CALD, women, juniors and others is at the core of what Recreation and Leisure Services seek to facilitate. Therefore, the allocation of sportsgrounds and facilities should encourage and favour clubs and hirers that proactively drive opportunities for such groups.

20. Historically, the current allocation criteria, and limited application of such criteria, has resulted in the following outcomes:

    (a) Whilst there has been an overall increase in female participation rates within Yarra from 2016 to 2020, the ratio of female to male participants still remains significantly lower. The gender breakdown data for the Winter season 2019 reveals 70% male to 30% female ratio and the Summer season 2019/20 88% male to 12% female ratio;

    (b) 10% of Yarra clubs have dedicated programs for people with a disability;

    (c) 6% of Yarra sporting organisations actively promote an inclusive environment for the LGBT+ community; and

    (d) 5% of Yarra clubs provide dedicated programs for participants facing varying challenges in their lives (e.g. homelessness, mental health issues, unemployment, CALD, substance and alcohol abuse, low income, etc.).

21. Furthermore, the current allocation process and criteria have no provision that encourages equitable programming for participants. For example, how clubs and/or hirers have programmed when and where teams train and play has predominately been the responsibility of the club and/or hirer, and the League or Association they play in; historically this has resulted in male teams and participants accessing the best/premiere facilities and preferred timeslots for training and matches.

22. The review of the current sportsgrounds and facilities allocation process has identified key opportunities for improvement, including:

    (a) Guaranteeing allocation standards and criteria that clubs and hirers can be measured against and be held accountable to;

(b) Ensuring that there is transparent, consistent application of the allocation criteria;

(c) Alignment with branch-wide strategy, such as the Physical Activity Plan;

(d) Adherence with wider Council values and objectives; and

(e) Incentivising clubs and hirers to proactively achieve against the defined guiding principles and/or allocation criteria through the direct link to the proposed fees and charges for sportsground and facility hire.

23. The current allocation process has resulted in a heavily discounted fees and charges structure where clubs and hirers pay minimal amounts to hire Yarra's sportsgrounds and facilities. The below table illustrates the level of discounts extended to clubs and hirers, based on the current allocation process and fees and charges structure:

Table 1 - Fiscal impacts of sportsground and facilities allocation process and discount matrix

Year	Allocation Value*	Discounts Applied**
16/17	$229,565	$202,025
17/18	$256,607	$225,879
18/19	$262,731	$233,220

* Combined Winter and Summer seasonal allocations
** Discounts applied to allocations via the current allocation criteria

24. Due to the significant level of discounts applied to allocations for existing Yarra clubs and hirers, the baseline level of cost recovery being achieved by Council is extremely low (average 2.28%). Officers believe that a key outcome should be to reach a minimum of 20% cost recovery, per industry norms, standards and practices, but that should the current process and fees and charges structure persist, this could contribute to a failure to properly manage and maintain Yarra's sportsgrounds and facilities for future generations.

25. Officers also recognise that the impacts of implementing a fees and charges structure that aims to achieve a minimum 20% cost recovery will financially impact Yarra's existing seasonal clubs and hirers. Attachment 4 – *Yarra Sports Club Impact Study 2020*, demonstrates the level of cost recovery being achieved by the current fee structure and discounting mechanism, and the impacts of the proposed fees and charges structure will have on existing Yarra seasonal clubs.

26. As detailed in Attachment 4 – *Yarra Sports Club Impact Study 2020*, the proposed increase in fees that would be paid by seasonal clubs and hirers will average $3,054. In order to mitigate the negative fiscal impacts on community sport as a result of the proposed new allocations policy and fees and charges structure, Officers recommend a staged approach to implementation.

27. The recommended staged implementation approach would see the proposed fees and charges for the hire of Yarra's sportsgrounds and facilities implemented of over a three-year period, with a key outcome for Yarra's existing seasonal clubs and hirers to reach the minimum of 20% cost recovery by year three. This approach is devised with consideration to the fact that existing seasonal clubs and/or hirers are currently paying minimal amounts, if anything at all, for the hire of Yarra's sportsgrounds and facilities.

28. Due to the extremely low baseline of cost recovery currently being achieved by Council, and with the options detailed in this report focussed on achieving a level of 20% cost recovery, consideration could be given to staging the process over a longer time period, should Council wish to reduce fiscal implications on clubs and hirers further.

29. Noting a cost recovery of around 20% is standard elsewhere, and that Council is currently subsidising clubs and facility users to almost 100%, Council could alternatively decide to implement this change immediately, however Officers do note that this may come as a surprise to some clubs, and may be seen as an additional burden whilst trying to recover from the impacts on COVID-19.

Options

30. The *Draft Sportsgrounds and Facilities Allocation Policy (2021)* takes a deliberate and transparent approach towards improving the behaviour and standards of clubs and hirers of Yarra's sportsgrounds and facilities by recommending adherence to the following guiding principles:

(a) **Community First** - Allocations reflect that the Yarra community is the priority, which extends broadly to include those who live, learn, work and play in Yarra. Opportunities to integrate this principle include;

(i) Partnerships with Yarra-based organisations (both commercial and Not-For-Profit) to facilitate programs delivery (e.g. Blind Sports, AAA Play, local schools);

(ii) Delivery of events and initiatives for the Yarra community (e.g. family days);

(iii) Modification of schedules to create space for other sports and/or active recreation opportunities; and

(iv) Demonstration of a strong community focus that is reflected across different mediums (e.g. website, social media, policies, participation base, programs, Council engagement).

(b) **Governance** – Allocations ensure that clubs and hirers' organisational conduct demonstrates alignment with their respective State Sporting Associations' safe sport, risk mitigation and compliance, good governance and integrity frameworks and cultures. Opportunities to integrate this principle include;

(i) Affiliation with the peak body;

(ii) Participation in club development and improvement initiatives;

(iii) Demonstrated club good governance (e.g. member protection policy, annual reports, constitution, AGM minutes) that are made available to members; and

(iv) Fulfilment of Agreement and Hirer obligations within agreed timelines.

(c) **Inclusion and Diversity** – Allocations mandate minimum requirements that incentivise clubs and hirers to activate programs, services and/or events that positively influence and improve the diversity of their members and participants. Opportunities to integrate this principle include;

(i) Modified formats and programs (e.g. beginners, mums, older adults, rehabilitation, etc.);

(ii) Different activities and options (e.g. club partnerships, fitness-based sessions, social play, etc.);

(iii) Non-competition-based participation (e.g. pay and play with no commitment to join a team, etc.);

(iv) Documented internal policy (of the club and/or hirer) regarding inclusion and diversity initiatives and targets;

(v) Creation of a visible presence of non-traditional participants (e.g. schedule allows prime/preferred allocations for different teams, promotional materials appeal to different groups, etc.); and

(vi) Demonstrated diversity within the decision-making bodies of the organisation (e.g. committees, boards, coaching, etc.).

(d) **Financial Management** – Allocations ensure that that clubs and hirers are fiscally responsible. Opportunities to implement this principle include;

(i) Club/Hirer information is available to its members (Financial reporting, Annual Reports);

(ii) That a statement of financial position or annual report is provided to Council; and

(iii) Demonstrated past hire performance and ability to cover usage costs to council.

31. The *Draft Sportsgrounds and Facilities Allocation Policy (2021)* aims to ensure that Yarra's sportsgrounds and facilities are allocated to clubs and hirers that share and proactively progress Councils broader strategic objectives to provide inclusive, diverse, safe and welcoming recreation and organised physical activity opportunities for the community.

32. The criteria, as outlined in the *Draft Sportsgrounds and Facilities Allocation Policy (2021)*, are a deliberate and significant increase of the expectations placed on clubs and hirers to align behaviours and cultures with Councils broader strategic objectives. Officers propose that the implementation of essential criteria and weighting of applications against the detailed criteria be staged over a three-year period, in alignment with the proposed changes to the fees and charges structure.

33. The staged approach to implementation would see Yarra's seasonal sports clubs afforded time, resources and assistance from the Recreation unit to develop club culture and governance practises, and align behaviours and approaches to inclusion and diversity, so that success is achieved and the desired criteria/standards are met by year 3 of the proposed policy's adoption. The proposed implementation detail is as follows;

Table 2 – Proposed implementation of Sportsgrounds and Facilities Allocation Policy (2021)

Financial Year	Sportsgrounds and Facilities Allocation Policy (2021) – Implementation
2021/22	**Planning and Policy Socialisation** Recreation unit will collaborate with clubs to discuss the expectations of the proposed Policy and essential criteria to assist them in developing a road map for how they will progress their standards in preparation for years 2 and 3 of the implementation approach.
2022/23	**Essential Criteria Introduced** All allocation applications will be subjected to the essential criteria requirements outlined in the policy and the Recreation unit will meet with clubs to discuss progression within their defined roadmap created in Year 1 of the implementation plan.
2023/24	**Policy in effect** The *Sportsgrounds and Facilities Allocation Policy* (2021) will be applied equitably in full.

34. The 'Planning and Policy Socialisation' phase of this implementation approach is critical to the success and effectiveness of the proposed policy. Officers will work closely with clubs to contextualise policy expectations, identify potential gaps, provide guidance and develop strategies and plans to rectify any gaps via meaningful and achievable action plans, so as to support to clubs to adapt, succeed and thrive.

35. Officers believe that the introduction of a formalised approach, via the proposed policy, would act as a motivator for clubs and hirers to meet the defined expectations, in order to achieve an allocation of a Yarra sportsground or facility. It is proposed that clubs and hirers be further incentivised, via the subsidies offered, to exceed expectations against the defined mandatory criteria and thus ensure that a 'best practise' approach is taken across all areas of a club and/or hirer's organisation. The total criteria (including sub-criteria) adds to 100 (refer Attachment 1 – *Draft Sportsgrounds and Facilities Allocations Policy 2021*). The level of subsidy would be applied utilising an applicants' allocation criteria score and is proposed to integrate with the pricing structure as below:

Table 3 – Seasonal hire subsidies

Subsidy Level	*Subsidy Percentage*	*Qualification*
Subsidy Level 1	50%	Allocation Criteria Score between 20 and 29
Subsidy Level 2	60%	Allocation Criteria Score between 30 and 49
Subsidy Level 3	70%	Allocation Criteria Score between 50 and 69
Subsidy Level 4	80%	Allocation Criteria Score between 70+

36. When determining the proposed fees and charges structure, Officers undertook a site by site analysis of the costs to deliver Council's sportsgrounds and facilities, including consideration of the costs of contracted sportsground turf maintenance, irrigation costs, building maintenance costs for pavilions, utilities, building insurance costs and costs of administration (Attachment 3 – *Sportsgrounds and Facilities Cost Assessments*). Officers then compared the total costs of delivery against the total hours of hire for each sportsground and facility, resulting in a per-hour price being able to be established.

37. When undertaking the investigation, Officers also analysed the costs related to providing and maintaining turf pitches for cricket, which is estimated at $10,000 annually and is an additional cost to Council outside of the existing turf maintenance contract. Turf pitches are considered a premier playing surface and require extensive resources and maintenance to provide and preserve. Consequently, Officers recommend developing and applying a separate surcharge fee in addition to the hire fee charge to hirers (where applicable). These surcharge fees would be intended to sit separately from the full fee payable for facility hire and would not be subjected to any subsidy system per the *Draft Sportsgrounds and Facilities Allocation Policy (2021)*, as the intention would be to recover 100% of the cost to supply this level of service and facility.

38. Officers believe that the current allocations process and pricing structure does not reflect, or adequately recoup, a fair and equitable percentage of the costs to deliver and maintain Yarra's sportsgrounds and facilities; nor do they reflect the Council adopted *City of Yarra Pricing Policy (2019)*. Consequently, Officers have developed three pricing options for consideration as follows;

    (a) **Option 1 – Universal Fee (not recommended)** – This pricing model bundles the total costs of delivering Yarra's sportsgrounds and facilities against the total hireable hours of these facilities to produce a flat fee per hour. Fees and charges for sportsgrounds and pavilions have been separated. This fee structure, whilst simplistic in nature, does not allow for variations in the costs, quality or usage for each specific site, which would result in clubs and hirers paying either well above the costs of delivery, or well below the cost of delivery depending upon the ground and pavilions hired. Consequently, Officers do not recommend this pricing model;

    (b) **Option 2 – Categorised Fee (recommended)** – This pricing model aligns sportsgrounds based on their quality/standard, capacity and activation purpose, to establish four separate categories, each category with their own per hour fee. These categories have been informed by, and align with, State Sporting Associations and Local Government industry standards and norms and is therefore, the recommended option by Officers; and

    (c) **Option 3 – Site Specific Fee (not recommended)** – This pricing model breaks down the specific costs of delivery per site to ascertain an hourly rate of hire for each individual site. Whilst this methodology is the most accurate, it is however, the most complex and difficult to administer with the monies recovered not commensurate with the work required to implement this methodology. Furthermore, it may result in clubs/users paying a comparatively high fee for a facility requiring a high level of maintenance expenditure (for reasons beyond their control), which may not be fair. Consequently, Officers do not recommend this pricing model.

39. To demonstrate the impact of each of these pricing structures on clubs and hirers of Yarra's sportsgrounds and facilities, a club impact analysis has been conducted based upon allocations issued for the 2020 season (Attachment 4 – *Yarra Sports Clubs Impact Study 2020*).

40. **Option 2 – Categorised Fee Structure** – has been recommended by Officers as the most suitable pricing model as it;

    (a) Is informed by industry standards and norms that categorise facilities based on the following principles;

        (i) Ground size;

        (ii) Level of competition played;

        (iii) Sports lighting capacity; and

        (iv) Risk factors;

    (b) Recognises that each of Yarra's sportsgrounds have variations in activation capacity, quality, features and cost and has sought to align like for like facilities into four simple categories that can be easily interpreted by the community;

    (c) Is the approach most commonly used by State Sporting Associations and Local Government; and

    (d) Allows for appropriate charging for each category of facility, based on the above key factors and informed by the analysis of each category's delivery costs.

41. Officers conducted an extensive facility audit that has taken into consideration the abovementioned factors and categorised each Yarra sportsground into;

    (a) **Premier** - Premier grounds are suitable for professional and/or semi-professional sport. They are suitable for hosting events with the capacity to secure the perimeter and manage access and are generally the preferred location for pre-season matches. The following Yarra sports grounds are considered to be Premier facilities:

        (i) Bastow 1 Pitch; and

        (ii) Victoria Park.

    (b) **Community 1** - Community 1 grounds are suitable for all age groups and all standards of community level sport including having a ground size that is suitable for all grades of community level competition and sports lights that meet the standard for winter season night matches. The following Yarra sports grounds are considered to be Community 1 facilities:

        (i) Alphington Park Oval;

        (ii) Fairfield Park Oval;

        (iii) Fletcher 1 Pitch;

        (iv) Loughnan Oval;

        (v) Peterson Oval;

        (vi) Ramsden Oval; and

        (vii) Yambla Reserve.

    (c) **Community 2** - Community 2 grounds are suitable for some community level competition; however, the appropriate grade of competition is restricted based on specific factors related to ground size, surface quality and shared spaces (parks, walking tracks, etc.). The following Yarra sports grounds are considered to be Community 2 facilities:

        (i) Alan Bain Reserve;

        (ii) Alfred Crescent Oval;

(iii) Bastow 2 Soccer Pitch;

(iv) Burnley Oval;

(v) Citizens Park;

(vi) Coulson Reserve;

(vii) Fletcher 2 Oval; and

(viii) George Knott Soccer Pitch.

(d) **Training Grounds** - Training grounds are suitable for community level training but not competition due to grounds size restrictions, surface quality or lack of amenities. The following Yarra sports grounds are considered to be Training Ground facilities:

(i) Walker Street Reserve.

42. Officers acknowledge that the implementation of the proposed fees and charges structure, would result in an increase in the fees paid by existing seasonal clubs and hirers to use Yarra's sportsgrounds and facilities. Officers therefore recommend a staged approach to implementation. For example, should the recommended pricing model of Option 2 - Categorised Fee be approved, it would be implemented over a three-year period as follows:

Table 4 - Proposed implementation of fees and charges structure

Financial Year	Fees and Charges – 3 Year Implementation	
2021/22	Seasonal Fees set to **50%**	Casual Fee set to **80%**
2022/23	Seasonal Fees set to **75%**	Casual Fee set to **100%**
2023/24	Seasonal Fees set to **100%**	Casual Fee set to **120%**

43. The proposal to implement the fees via a staged approach recognises the low baseline cost currently being paid by clubs. The above implementation period of the proposed pricing structure will see seasonal fees commence in year 1 at 50% of the recommended full fee, 75% in year 2, and 100% of the recommended fee in year 3. This approach will ensure that clubs and hirers are afforded the time to prepare and resource themselves adequately to continue to hire and use Yarra's sporting facilities.

44. Council may determine that the fiscal impacts on seasonal clubs and hirers as a result of recommended Option 2 – Categorised fees is too great, even starting at a 50% reduction of the fee in year 1 and may choose to either lower the level of baseline cost recovery from 20% or seek to extend the staged approach over a longer period of time (currently three years). However, Officers believe that the implementation of the new pricing structure, staged over a three-year period is necessary due to: the current pricing structure no longer being relative to the costs of delivery; the significant levels of discounts being applied; the ability to introduce a policy and criteria which supports broader Council objectives of participation and inclusion and align with Council's values and State Sporting Associations' good governance and integrity frameworks; and the opportunity to better reflect industry norms around cost recovery, asset management and stewardship.

Community and stakeholder engagement

45. Officers have conducted extensive industry research including interviewing Local Government Authorities (Attachment 2 – *Local Government Benchmarking*) and State Sporting Associations for the purposes of benchmarking against comparable markets and to ensure that pricing is set in a fair and competitively neutral manner.

46. The *City of Yarra Pricing Policy (2019)* does not call for community consultation when setting Council's fees and charges. Consequently, community and stakeholder engagement in the development of the proposed pricing structure has not been a factor in the development of such options and recommendations. Fees and charges are however included in the

proposed Budget and a formal consultation is undertaken, allowing for community feedback as part of this process.

47. Officers have considered the current baseline of fees currently being charged, as well as the effect the proposed pricing structure would have on existing seasonal clubs and hirers, and therefore recommend that implementation occur via a staged approach over a three-year period.

48. Additionally, Officers recommend aligning the implementation of the proposed pricing structure with the *Draft Sportsgrounds and Facilities Allocation Policy (2021)*, with year 1 of the process designed to socialise and contextualise the policy and actively assist clubs and hirers to understand and achieve against the proposed policy's criteria. The Recreation unit would help through direct and close support/contact with club representatives, so as to undertake gap analysis, and develop strategies and action plans to ensure that the proposed criteria contained within Attachment 1 – *Draft Sportsgrounds and Facilities Allocation Policy (2021)* could be met.

Policy analysis

Alignment to Council Plan

49. The *Draft Sportsgrounds and Facilities Allocation Policy (2021)* aims to deliver on the following identified Council objectives;

    (a) Council Plan 2017-2021:

        (i) Strategy 1.2 – Promote a community that is inclusive, resilient, connected and enjoys strong mental and physical health and wellbeing;

        (ii) Strategy 1.3 – Provide health promoting environments that encourage healthy eating and active living;

        (iii) Strategy 1.6 – Promote a gender equitable, safe and respectful community;

        (iv) Strategy 1.8 – Provide opportunities for people to be involved in and connect with their community;

        (v) Strategy 2.1 – Build resilience by providing opportunities and places for people to meet, be involved in and connect with their community;

        (vi) Strategy 2.2 – Remain a highly inclusive municipality, proactive in advancing and advocating for the rights and interests of specific groups in the community and community issues;

        (vii) Strategy 2.5 – Supports community initiates that promote diversity and inclusion; and

        (viii) Strategy 7.1 – Ensure Councils assets and financial resources are managed responsibly and deliver financial sustainability;

    (b) Access and Inclusion Strategy 2018-2024:

        (i) Strategy 1.7 – Create neighbourhoods that are safe and promote a sense of belonging;

        (ii) Strategy 2.1 – Provide and/or support the community to provide a diverse range of accessible community services and arts, cultural, sport and recreational activities that are creative and fun for all abilities and ages; and

        (iii) Strategy 4.3 – Raise community awareness of people living with an invisible disability.

Climate emergency and sustainability implications

50. There are no climate emergency or environmental sustainability issues that have been identified as a result of this report.

Community and social implications

51. The review of the current sportsgrounds and facilities allocation process has identified some significant gaps in the criteria that no longer aligns with Council's values including inclusion, diversity and accessibility goals, or supports State Sporting Associations' safe sport, good governance and integrity frameworks, which Officers have sought to address via the *Draft Sportsgrounds and Facilities Allocation Policy (2021)*.

52. The proposed policy has a clear intention of ensuring that emphasis is placed upon the provision of welcoming, inclusive and accessible organised sporting opportunities for the Yarra community that is provided by clubs and hirers with safe sport, good governance and integrity frameworks in place, thereby ensuring positive impacts on the opportunities and outcomes for the community.

53. Officers recognise that the criteria proposed within the *Draft Sportsgrounds and Allocations Policy (2021)* would potentially increase expectations of some current club behaviours and practises and this may require some additional work; other clubs will be well-placed to meet these obligations based on existing practices. Noting not all clubs will be as well-equipped Officers propose that should the *Draft Sportsgrounds and Allocations Policy (2021)* be adopted, the implementation be staged over three years to enable the Recreation unit to work directly with clubs to socialise and contextualise the expectations of the policy; provide advice and guidance; afford development opportunities including formal club development workshops; and offer close support that would progress Council's community, inclusion, diversity, accessibility and good governance objectives, as well as assist clubs to adapt, succeed and thrive.

Economic development implications

54. There are no immediate economic development implications as a result of this report.

Human rights and gender equality implications

55. The essential and weighted criteria developed in the *Draft Sportsgrounds and Facilities Allocation Policy (2021)* by Officers, aims to meaningfully and deliberately progress inclusion, accessibility and equity opportunities in organised sport and recreation for the Yarra community. Further, Officers also aim to ensure clubs are supported to be welcoming, safe and well-governed.

56. Officers have developed the criteria in the *Draft Sportsgrounds and Facilities Allocations Policy (2021)* seeking to ensure that marginalised or specific cohorts (i.e. women, juniors, disabled, CALD, etc.) are not prioritised in any prescribed order, in recognition that there are many types of underrepresented groups, including new and emerging cohorts. This flexibility within the proposed Policy will enable clubs to target and develop their own custom markets, audiences and member bases, as well as ensure the policy remains relevant within an ever-changing landscape.

Operational analysis

Financial and resource impacts

57. Due to the significant level of discounts applied to allocations for existing Yarra clubs and hirers, the baseline level of cost recovery currently being achieved by Council is extremely low (currently averaging 2.28%). Officers believe that a key outcome should be to reach 20% cost recovery, per industry standards and norms, but that should the current process and fees and charges structure persist, the result will be a failure to properly manage and maintain Yarra's sportsgrounds and facilities for future generations. Officers also recognise that the impacts of implementing a fees and charges structure that aims to achieve a minimum 20% cost recovery will financially impact Yarra's existing seasonal clubs and hirers. Attachment 4 – *Yarra Sports Club Impact Study 2020*, demonstrates the level of cost recovery being achieved by the current fee structure, discounting mechanism and process and the impacts the proposed fees and charges structure will have on existing Yarra seasonal clubs.

58. Officer analysis demonstrates the implications of taking a three-year staged approach to the implementation of the recommended option, Option 2 - Categorised Fee (Attachment 4 – *Yarra Sports Clubs Impact Study 2020*), would result in the average increase in facility hire fees paid by a club being $3,054 in year 1. It should be noted that this figure does not include additional surcharges for lighting (currently paid for by clubs playing at facilities with lighting) or turf wicket provisions, which would be charged separately and not subject to Council subsidies.

59. Officers' proposed application of a staged approach to implementing the recommended fee structure (Option 2 - Categorised Fee) would result in a minimum 20% cost recovery being achieved across all hireable sportsgrounds and facilities, even in the event of clubs and hirers achieving the highest level of subsidy, which is capped at 80% in year 3 of implementation. The below table shows the financial outcomes of the proposed three-year implementation strategy:

Table 5 – Proposed three-year implementation impacts

Cost Recovery	Year 1 Cost Recovery	Year 2 Cost Recovery	*Year 3 Cost Recovery	2019 Cost Recovery
Winter Sportsgrounds	$22,514.66	$33,771.65	$45,676.09	$8,048.20
Winter Pavilions	$18,493.68	$27,725.46	$36,967.28	$0.00
Summer Sportsground	$16,819.55	$25,229.33	$33,639.10	$8,854.12
Summer Pavilions	$16,025.40	$24,025.05	$32,033.40	$0.00
TOTALS	**$57,827.89**	**$110,751.48**	**$148,315.87**	**$16,902.32**

**Year 3 cost recovery minimum is based upon all hirers receiving the maximum 80% subsidy available via the sportsgrounds and facilities allocation criteria. However, in year 3, all clubs will not automatically receive the maximum subsidy as in year 1 and 2 of the implementation plan and will attract a subsidy directly linked to their actual allocation score.*

60. The proposed *Draft Sportsground and Facilities Allocation Policy (2021)* outlines the essential criteria and detailed framework for the weighting of applications for the use of Yarra's sportsgrounds and facilities, which includes the key guiding principle of 'Financial Management'. This key principle within the framework is intended to identify a club's fiscal capacity to pay the fees and charges associated with an application to use Yarra's sportsgrounds and facilities. However, if a club and/or hirer is able to demonstrate exemplary performance, via the allocation criteria framework, but is unable pay the associated hire fees in the ordinary full sum transaction process, Officers recommend that the current practice of extending the club payment flexibility via the introduction of a payment plan, be retained. The current practice sees the terms of any flexible payment plan initially negotiated by the Recreation unit and approved by the Director City Works and Assets.

61. In addition to the club development support proposed (refer to paragraph 54), and as per normal practices, Officers would also work with clubs to notify and assist with possible external funding and grant opportunities relevant to grassroots sport, engagement, participation and membership.

Legal Implications

62. The criteria identified in the *Draft Sportsgrounds and Facilities Allocations Policy (2021)* that form part of the allocation framework related to governance and finance are designed to advance club management and practices related to financial management, risk mitigation, dispute resolution, child safety, integrity, etc. These criteria are in addition to other mandatory requirements, such as Responsible Service of Alcohol (where required) and food-handling certification (where required) and have been informed by peak bodies such as Sport and Recreation Victoria, Sport Australia and State Sporting Associations.

Conclusion

63. The Recreation and Leisure Services' Branch review into sportsgrounds and facilities' allocation processes has identified the need for critical areas of improvement to ensure alignment with industry best practise, as well as Council policies, values and objectives that positively influence the culture and behaviours of clubs and hirers who receive allocations and utilise Council's sportsgrounds and facilities.

64. The *Draft Sportsgrounds and Facilities Allocation Policy (2021)* proposes to implement a suite of balanced, relevant and transparent criteria that directly ties to Council's values and objectives, as well as State Sporting Associations safe sports and integrity frameworks, to ensure that sport within the City of Yarra is accessible, inclusive, equitable, well-managed and well-governed for all who live, learn, work and play in Yarra.

65. Officers propose that should the *Draft Sports Grounds and Allocations Policy (2021)* be adopted, the implementation be staged over three years, because of the increased expectations that will be placed on clubs, noting that the Recreation unit would work closely with clubs to socialise and contextualise the expectations on clubs and provide guidance, development and support to clubs and hirers to adapt, succeed and thrive.

66. As part of the allocation review process, Recreation and Leisure Services also undertook an extensive review of current fees and charges to hire Yarra's sportsgrounds and facilities. The review identified that the current pricing practices are an outlier to industry standards and norms. Research shows the level of cost recovery to hire Council-owned sportsgrounds and facilities is typically set at 20% of the costs to provide and maintain the sportsground and facility (*Attachment 2 – Local Government Benchmarking*). Analysis of the 2020 Winter and Summer seasonal allocations and fees paid by clubs and hirers, however, shows the level of cost recovery achieved in that period averaged 2.28%, noting, many Yarra clubs and hirers historically receive a 100% discount on hire fees.

67. Officers believe that the current and fees and charges are inadequate and do not adhere to the adopted *City of Yarra Pricing Policy (2019)*. Yarra's current practice is also an outlier to local government standards, and there is a demonstrated need to develop options that recover fair costs to provide and maintain sports facilities in Yarra, now and into the future.

68. Officers recommend a Categorised Fee pricing model (Option 2) be adopted, as it aligns facilities based on their quality/standard, capacity and activation purpose, to establish four separate categories, each category with their own per-hour fee. These categories have been informed by, and align with, State Sporting Associations and Local Government industry standards and norms.

69. Should the *Draft Sportsgrounds and Facilities Allocation Policy (2021)* and the proposed Categorised Fee pricing model (Option 2) be implemented, Officers acknowledge that existing seasonal clubs and hirers will experience an increase in fees paid to hire Yarra's sportsgrounds and facilities. However, Officers believe the implementation of an allocations policy and a new pricing structure is necessary due to: the current pricing structure no longer being relative to the costs of delivery; the significant levels of discounts being applied; the ability to introduce a Policy and criteria which supports broader Council objectives of participation and inclusion and align with Council's values and State Sporting Associations' good governance and integrity frameworks; and the opportunity to better reflect industry norms around cost recovery, asset management and stewardship.

RECOMMENDATION

1. That:

   (a) Council endorse the *Sportsgrounds and Facilities Allocation Policy (2021)* via a three-year implementation approach, from 1 July 2021; and

   (b) Council adopt the fees and charges structure Option 2 – Categorised Fees, via a three-year implementation approach and these be included in the Fee Schedule as part of the 2021/22 Budget, to be implemented from 1 July 2021.

Attachments

1⇩ DRAFT - Sportsgrounds and Facilities Allocations Policy 2021

2⇩ Local Government Benchmarking

3⇩ Sportsgrounds and Facilities Cost Assessments

4⇩ Yarra Sports Clubs Impact Study 2020

Attachment 1 - DRAFT - Sportsgrounds and Facilities Allocations Policy 2021

Sportsgrounds and Facilities Allocation Policy

DRAFT

Policy Reference Number –

File Number –

Adopted by Council –

Date for Review – 30th March 2025

Responsible Officer – Manager Recreation and Leisure Services

Branch – Recreation and Leisure Services

Attachment 1 - DRAFT - Sportsgrounds and Facilities Allocations Policy 2021

1. Policy Statement

1.1 Yarra City Council (Yarra) will allocate the use of its sportsgrounds and facilities to Hirers that align with Yarra values and that are actively contributing to health, wellbeing and inclusion for the whole community.

1.2 The Sportsgrounds and Facilities Allocation Policy outlines the eligibility criteria and selection process for how these assets are allocated.

1.3 The policy replaces the allocation criteria aligned with the Yarra City Council Sports Strategy 2008-12 and has been expanded to apply to all allocation types.

2. Purpose

2.1 To ensure a responsible, consistent, transparent and equitable approach to the allocation of Yarra's sportsgrounds and facilities.

2.2 To outline the expectations on Hirers and their role in making a positive contribution to health, wellbeing and inclusion for the Yarra community.

2.3 To provide agreed principles to prioritise use and management of sportsgrounds and facilities.

3. Scope

3.1 This policy applies to the allocation of sportsgrounds and facilities managed by Yarra City Council.

3.2 This policy is relevant to sports clubs, associations, community groups, schools, and private and commercial organisations wishing to apply for an allocation.

3.3 Tenants who occupy Yarra facilities under a lease or licence agreement will be measured against the criteria from this policy upon re-negotiation of their agreement.

4. Objective

4.1 To ensure a diverse range of participants and activities at Yarra's sports facilities.

4.2 To provide an inclusive approach to sport, active recreation and physical activity opportunities.

4.3 To improve the physical, mental and social health and wellbeing outcomes for the Yarra community by ensuring facilities users are aligning their behaviours and culture with that of the organisation.

4.4 To ensure Council owned sportsgrounds and facilities are occupied by Hirers who provide safe, welcoming, well governed and sustainable programs.

4.5 To drive and encourage usage of Yarra's sports facilities by underrepresented groups within the community.

Attachment 1 - DRAFT - Sportsgrounds and Facilities Allocations Policy 2021

5. Guidelines /Procedures for Hirers

5.1 All Hirers must:

- 5.1.1 Provide current public liability insurance (insurance coverage must meet Council requirements);
- 5.1.2 Not have any outstanding debts to Yarra City Council;
- 5.1.3 Accept the terms and conditions of facility hire.

5.2 Other requirements may be communicated to Hirers depending on the nature of the activity taking place.

5.3 Council recognises the impact of bookings on turf sportsgrounds and the need to maintain playing surfaces. As such, capacity on each sportsground will not exceed 30 hours of allocated use per week.

5.4 Hirers based in Yarra will have priority over Hirers based outside the municipality.

5.5 Seasonal Hirers can refer to section 6, 7 and 8 of this policy for more information on the allocation process.

5.6 Access to sportsgrounds and facilities will be prioritised based on the type of user group, detailed below.

1)	Seasonal Hirers
2)	Not-for-profit community groups
3)	Government schools
4)	Private / commercial hirers and private schools

DRAFT

Attachment 1 - DRAFT - Sportsgrounds and Facilities Allocations Policy 2021

6. Allocation of Sportsgrounds and Facilities for Seasonal Hirers

6.1 Seasonal Hirers account for the majority of sportsground and facility allocations in Yarra. In order to achieve an ongoing allocation the Hirer must first meet essential criteria.

Essential Criteria
Registered as a legal entity (such as an Incorporated Association)
Affiliated with a State Sporting Association (SSA)
No financial debts owing to Yarra City Council
Provide current public liability insurance (insurance coverage must meet Council requirements)
Provide details of active participant numbers and demographics
Provide a detailed schedule of use for the requested facility
Acknowledge and sign the Child Safe Clause
Acknowledge and sign the Victorian Fair Play Code
Deliver ongoing programs or initiatives that cater for underrepresented groups
Accept the terms and conditions of seasonal facility hire

6.2 Allocation periods are typically based on traditional summer and winter sports seasons. However, it is acknowledged that new and emerging sports may have alternate season dates which will be accommodated where possible.

6.3 Seasonal Hirers will be required to submit an application prior to each allocation period, specifying their allocation preferences.

6.4 Winter and summer season allocations will take priority over off-season allocations.

6.5 Indicative season dates fall into four allocation periods, which are subject to change from season to season to align with scheduled competition dates.

6.5.1 Winter season allocation
- 1 April – 30 September

6.5.2 Summer season allocation
- 1 October – 30 March

6.5.3 Winter off-season allocation
- 15 January – 30 March
- Up to a maximum of 4 weeks between 1 November – 31 December

6.5.4 Summer off-season allocation
- 1 August – 30 September

Attachment 1 - DRAFT - Sportsgrounds and Facilities Allocations Policy 2021

7. Allocation Framework

7.1 The extent of allocations a Seasonal Hirer will be considered for will be dependent upon the number of participants and programs they cater for.

7.2 Where multiple applicants request the same facility, applications are subjected to Yarra's allocation framework and scored according to the weightings for each item.

7.3 Hirers will be scored based on how well the allocation framework is met.

Item	Allocation Framework Criteria	Weighting
	Community First	**30**
1	Documented evidence of a partnership / network with not-for-profit organisation/s within City of Yarra	5
2	Evidence of Child Safe Policy, including training, incident reporting process and record of Working with Children Checks	5
3	Evidence of partnerships and/or reciprocal arrangements with City of Yarra clubs and businesses	5
4	Evidence of how sustainability and waste management practices are implemented and communicated with members	5
5	Active participants comprise 50-75% Yarra residents	5
6	Active participants comprise 75-100% Yarra residents	5
	Inclusion and Diversity	**30**
7	Planned initiatives and activations that target one or more underrepresented groups	5
8	History of delivering initiatives and activations that target underrepresented groups in previous seasons	5
9	Evidence of a safe, inclusive environment including welcoming off-field social activities	5
10	Provision of a documented inclusion and participation policy/plan, including equitable programming schedule	5
11	The Hirer can demonstrate diversity within the decision making positions of the organisation (e.g. committee, coaching)	5
12	The Hirer can demonstrate that it actively engages with its stakeholders to embed inclusion and diversity values and behaviours	5
	Financial Management	**20**
13	Provision of a financial plan including annual budget	5
14	Provision of a financial statement and annual financial report	5
15	The Hirer can account for outstanding liabilities to creditors	5
16	The Hirer can demonstrate equitable fees and charges to its members	5
	Governance	**20**
17	Previous history of good tenancy at Yarra facilities	5
18	The Hirer can provide a detailed risk management plan and policies that demonstrates both physical risk and dispute resolution	5
19	The Hirer can provide a strategic plan that links to a detailed operating budget	5
20	Registered with an organisation that supports strong club governance (e.g. Good Sports, Sports Community, Vic Sport etc.)	5

8. Allocation Framework – Scoring Scale

8.1 Applications for sportsground and facility hire are scored against the allocation framework utilising a scoring scale from 0 to 5. Council Officers will determine scores based on season applications and the evidence provided by Seasonal Hirers.

Scoring Scale	Criteria
5	Meets criteria to the full extent
4	Meets criteria to a high level
3	Meets criteria to a medium level
2	Meets criteria to a low level
1	Barely meets criteria
0	Does not meet criteria

9. Glossary

Sportsgrounds	Natural turf ovals and pitches designated for the purpose of sport and recreation
Facilities	Incorporates all hireable sporting facilities managed by the Recreation Services unit. This includes all pavilions, halls, tennis/netball courts and cricket nets
Seasonal Hirer	Any organisation seeking ongoing access to a Yarra sportsground or facility (typically sports clubs)
Based in Yarra	Refers to Hirers based in a physical location within City of Yarra, and/or the service they provide directly benefits the Yarra community
Not-for-profit groups	Organisations who are registered with Consumer Affairs Victoria as not-for-profit and do not earn a profit for owners or members
Underrepresented groups	Populations identified as less likely to have opportunities to be physically active, based on demographics such as cultural background, gender, sexuality, age, religion, socio-economic status. The Recreation Services Unit can provide more information on specific priority groups which may evolve over time
Allocation period	Term in which grounds and facilities are assigned to a Seasonal Hirer or Hirers
Active participants	People currently involved with the organisation in some capacity i.e. does not include past players/members

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Attachment 2 - Local Government Benchmarking

Allocations	Glen Eira	Maribyrnong
Document	**Community Sport - Management of Grounds Policy'**	**Sportsground and Pavilion Allocation Policy**
Stakeholder interview	**Stakeholder interview complete**	**Stakeholder interview complete**
Who/what the Policy applies to: Seasonal allocation Leases Licenses Casual hire	**Seasonal allocations/licence:** Yes **Leases:** No (managed by the property and buildings team) **Casual bookings:** No • Does not include permitted commercial operators (including PTs) • A potential justification of why Leased clubs don't need to be included in the allocation policy is they are not using public open space, but rather a purpose built private site	**Seasonal allocation/licenses:** Yes **Leases:** Yes **Casual use:** Permits are issued with allocation terms and conditions **School use:** Permits are issued with allocation terms and conditions
Objectives of the policy - What do you want the policy to achieve/Issues that policy is addressing	• **Govern the allocation** of Council sports grounds for use by clubs • Provide a **consistent and transparent process** for the use of Council sportsgrounds and associated facilities • Provide a set of principles for the allocation of the sportsgrounds and associated facilities to **preserve the assets for current and future use**	• To provide a **framework for the allocation** of Council's sportsgrounds and pavilions • To establish the basis of lease, licence, seasonal, casual and permit **conditions for the allocation** of Council's sportsgrounds and pavilions • To provide **equity in the process** of allocating use of Council sportsgrounds and pavilions • To **create partnerships** with users of sporting facilities for the provision, development, use and management of Council facilities • To **encourage participation** in sport and recreation by all sectors of the community • To encourage **optimum use** of Council's sportsgrounds and pavilion
Allocation principles - What guides how you allocate grounds	• Glen Eira are land locked and don't have any spare grounds without sports club allocations • Due to limited availability it hasn't been necessary for them to have a strict allocation policy or allocation criteria • The **condition of the ground** is the major deciding factor about when groups can or cannot use the ground, in order for condition to be maintained for sport • **Balance of allocations for all demographics:** Where allocations are made which involve gender-specific sports, age-specific sports, or minority culture-specific clubs, other allocations at the same ground, park or reserve will aim to provide opportunities open to those who were not able to participate in the above mentioned activities	• **Increase participation** • **Equity** - utilisation of sportsgrounds and pavilions from groups which encourage the local community to participate in sporting activities • **Partnership** - develop partnerships with clubs to improve or develop facilities is essential to the long-term viability of clubs and facilities • **Diversity** - encourages diverse and multiple use of Council's sportsgrounds and pavilions
Types of allocation/agreements	• Seasonal allocation • Casual bookings • School bookings • Lease agreements	• Seasonal Allocation • Casual Permits (including school groups) • Lease • Licence
Allocation periods - seasonal dates	**Seasonal:** Summer 1st Saturday in October - 2nd Sunday in March; Winter 1st Saturday in April to 2nd Sunday in September **Pre-season** training, practice matches and finals do not constitute a booking under Seasonal allocations **Schools:** Annual application for term allocations (only during school hours)	**Seasonal:** Winter 1 April - 30 September; Summer 1 October - 31 March
Hierarchy of allocation - Order of priority of groups	**1.** The majority of the time sports clubs get precedence **2.** Try to provide for the dog walkers where possible • The biggest clash is between sports clubs and general community users i.e. dog walkers **3.** School groups - there are rarely clashes between school groups and sports clubs as they use the grounds at different times	**1.** Sports club competition **2.** Sports Club training **3.** Casual bookings
Allocation criteria - What MUST a Club satisfy in order to be awarded an allocation	• **Allocation History** - Council will not unreasonably refuse to make an allocation, consistent with the previous allocation, for the following season (provided Clubs have not breached any policy or conditions of use) - EOIs will only be called if there is a permanent vacancy in the system of allocations to grounds as a whole by inviting applications from any party • The club must be a separate legal entity (e.g. incorporated association) • The club has certified in writing that it accepts Council's Conditions of Use • The club has no debt to Council or the club is complying with a repayment arrangement which has been approved by Council • The club is affiliated with its relevant sporting body * Then Based on allocation consideration ratings and weightings	• Weighted based on allocation consideration score and weightings

Attachment 2 - Local Government Benchmarking

Allocation considerations - things that will be taken into consideration/weighted that influence an allocation	• The club has held seasonal allocations in the preceding season and or earlier – one point for each year up to a maximum of 20 points • Club complied with its allocation and Council's Conditions of Use during the most recent Season • Club provides community sport for people of all abilities • Club provides community sport for designated underrepresented groups, currently Junior Girls, Women and Masters (actual teams)	**Seasonal Allocation:** • Past, present and future financial viability • Historical use of facilities based within the City of Maribyrnong. • City of Maribyrnong based groups • A high percentage of membership being residents of the City of Maribyrnong • Groups which compete and train for matches in recognised associations/leagues • Providing opportunities for specific target groups such as women, juniors, older adults and people from diverse backgrounds • Community based not for profit user groups • Suitability of facility for identified purpose • Level of capital improvement and/or contribution made by the user group • User groups ability to optimise usage of the facilities • Benefit to the wider community • Compliance with OH&S, risk management, insurance cover and other policies consistent with Council objectives **Pre-season casual booking:** • Sportsgrounds capacity to sustain pre-season training. • Water restrictions. • Sharing of resources. • Completion of cricket season • Level of competition • Home ground availability **School use:** • High usage times. • Sporting activity. • Impact on the reserve. • Previous use of Council facilities. • Ongoing requirement for use of Council reserves outside of school hours
Application process - operational	• Clubs are required to fill out a seasonal sportsground allocation form and submit to Council with all required supporting documents	• Clubs must apply for a login and complete a Seasonal Allocation Application through Council's Online Allocation System – IMS • Application forms must be lodged online by the due date. Any late applications may jeopardise the Club's allocation and/or preferences requested. Applications cannot be guaranteed
Application requirements - documents required	• Public Liability Insurance • Affiliation with relevant sporting body • Liquor Licence (if applicable) • Fixtures for all teams • Financial statement and an annual report from the most recent completed financial year • Sports Club contact form • Sports Club membership form • Signed agreement	• Application for Use (Inclusive of all Club membership information, contact details, incorporation number and sportsground and pavilion use times) • Annual Report or Financial statement (showing revenue and expenditure) • Public Liability Policy of Insurance – minimum $20 million • Alcohol Management Plan • Liquor Licence (if applicable) • Food Act Registration Permit (if applicable) • Risk Management Plan (in Council approved template)
Exclusivity - What does 'allocation' entitle the user group to?	• The Club must not at any time deny free access to members of the public wanting to walk through or utilise the reserve • Gates to the reserve / sportsground are not to be locked at any time except by Council	• Different depending on lease, licence, seasonal allocation or permit - **Lease: Exclusive occupancy** - **Licence:** Not exclusive occupancy, but **exclusive use during allocated times**. Clubs who contribute to capital improvements or upgrades by be awarded longer licences - **Seasonal allocation**: Does **not** provide **exclusive use** of the sports facilities • In general Council is trying to activate these spaces during the day/Utilise for other groups
Subletting	Not allowed	No, unless with written approval (exceptional circumstance)

Attachment 2 - Local Government Benchmarking

Withdrawal of sportsgrounds and pavilions allocations	• Council may at any time reduce or limit allocation of a ground or facility due to reasons including but not limited to: - The sportsground is unplayable due to **inclement weather** - The sportsground is **unsafe** for match play - The sportsground **requires surface repairs and/or redevelopment works**; installation of warm season grasses, irrigation, drainage etc - The sportsground is required for a community event • Council reserves the right to suspend or revoke an allocation at any time if a club **breaches this Policy or the allocation agreement or conditions of use** • Council reserves the right to reallocate grounds (and pavilions) at any time in response to **changing circumstances**	• Due to **weather and ground conditions** • Maximise the **condition of the playing surface** for competition fixtures • Sportsground and / or Pavilion is required to **undertake repairs, renewal or redevelopment works.** • Sportsground and / or pavilion is required for a Council approved **community event.** • Club has **failed to comply** with the Sports Club User Guide or directions from Council • **Club has damaged** pavilion, sportsground or infrastructure • Where grounds are required to be closed, Council will endeavour to provide Clubs with as much notice as possible
Reporting requirements - What are the reporting requirements?	N/A	• Yearly reporting on participation: - No of players - No of teams - Ages - Gender • Associations do a health assessment of Clubs, but Council are looking to work with Clubs on strategic plans
Key considerations, issues and challenges - What is working well and not working well?	**Considerations:** • Is it important to consider if the club is predominantly comprised of Glen Eira residents in allocation criteria? • Club education on processes and the 'why' is super important - Club Liaison officer is a key • Give Clubs a one pager that summarises what is REALLY important from the sports club user guide	**Challenges:** • No major challenges – at the moment all works well **Considerations:** • Potentially reviewing allocations policy to include a requirement for female and junior participation – This would be a stage-by-stage roll out
Fees and charges	**Glen Eira**	**Maribyrnong**
Document	**Don't currently have a Policy, but are working on one**	**Sportsground & Pavilion Fees and Charges Policy (2008)**
Objectives - What do you want the policy to achieve/Issues that policy is addressing	**Objectives for new policy:** • **Consistency** of charging (for sports clubs and the community) • **Transparency** of fees (for sports clubs and the community) • Ability to clearly **justify** why and what Council is **charging** • **Eliminate blanket bookings** of grounds by clubs - so Council can optimise allocation for other groups and manage ground usage accurately	• To provide a **fair and equitable** system for charging for the use of sports grounds and pavilions • To ensure **consistency and transparency** in decision-making • To encourage **efficient and effective** use of Council resources • To allow council to **pro-actively manage** sportsgrounds in order to **prevent over-use and/or inappropriate uses**, thereby ensuring the long-term sustainability of playing fields • To **promote positive user attitudes and responsibility** towards facilities
Fees and Charges Principles - What guides decisions on how much is charged?	**Principles for new Policy:** • Assign fees and charges that align with **recouping a percentage** of the current annual **maintenance costs** for sports grounds and pavilion • Fees should **reflect the amount of use** and what facilities are being used by Clubs • Establish a more **equitable framework** for calculating fees and charges for Council to administer, including **itemised fees** (e.g. sportsground, pavilion, lighting and turf wicket preparation) • Council's system of sports grounds operates on a **not-for-profit basis in order to provide for community sport**	• Allow council to **recover a proportion of the facility costs** from users • Ensure fees and charges **reflect the standard of the facilities** being provided • A formula which makes fees and charges of sportsgrounds **uniform and efficient to administer**
Pricing Model: 1. Recouping a percentage of maintenance costs 2. Set fee depending on ground classification 3. Other	**No 'pricing model' currently** • Very adhoc • A 'fee' for both pavilion and sportsground hire was set in 2002, loosely based on recouping some maintenance costs at the time • These costs have changed significantly, however fees and charges have only increased with CPI **New pricing model:** yet to be determined but options include: **1. Grounds/pavilions are classified** into 4 groups and each group has an associated charge **(Flat rate) based on cost of maintenance** **2. Universal fee:** Average the cost of maintenance on all grounds and Clubs pay a **standard rate based on hours of use. Subsidies** for smaller clubs and those that offer benefits to the community **would be considered** **3.** Clubs pay **a set percentage of the maintenance** of the **specific ground** they use - This will depend on how significant the change is the what Clubs are paying now **4. Updated lump sum payment** that is more reflective of accurate maintenance and redevelopment costs for sportsgrounds and pavilions. Ensure this is amended and updated each year to reflect true maintenance costs 'a more transparent version of what clubs currently	**Fee based on ground/pavilion classification and amount of use:** **Sports ground: Ground delivery cost (maintenance) determined by a** grading system which is based on the quality of the grounds, relevant facilities and amenities **Pavilion: A percentage of costs (2%)** related to an **assets replacement value** which reflects the quality and features ascribed to a pavilion - (unsure how this 2% was decided upon) **Sessional charges:** Charges are applied for the use of sportsground and pavilion at a sessional rate which reflects accurate use of a facility

Attachment 2 - Local Government Benchmarking

Charging method and components	Yet to be determined - Will depend on pricing model	• Seasonal Users will pay a percentage of the costs associated with the ongoing maintenance of each sports ground, which is related to the grounds classification • For Pavilion use Clubs will pay 2% of the cost to replace on a sessional basis over a clubs allocated season **Seasonal fees are calculated as follows:** Step 1: **Determine Sportsground category** (AA, A, B, C as outlined in rating system) Step 2: Determine 2% of sporting **pavilions 'Replacement Cost'** Step 3: Add the pavillion charge (2% of replacement cost) and ground charge **(maintenance cost for ground category)** together Step 4: **Divide the combined charge by the total number of Sessions/Units** available time over a year (468) to arrive at a **unit cost**. Step 5: Multiply the unit cost by the **number of Session/Units used** by a Club each week **multiplied by the number of weeks within a season** (26) to arrive at a **gross charge** Step 6: Multiply by the **percentage** Council wants to **recover** from users of sportsgrounds
Additional fees	**Utility fee:** Clubs currently pay this but it doesn't include water and waste removal	**Utility/services:** The Club is responsible for all utility costs associated with the use of the sportsground and pavilion which includes but is not limited to; telephone, electricity, gas and pavilion water **Sporting Club Finals Use:** 1. Sporting finals representing a competition played within the municipality will attract a community charge as outlined in Council's Schedule of Fees determined through Council's annual budget process. 2. Sporting finals which do not represent a competition played within the municipality will attract a private charge as outlined in Council's Schedule of Fees determined through Council's annual budget process. • **Flood lighting:** Seasonal maintenance costs and electricity costs at clubs expense • **Turf wicket:** preparation of the turf wicket is at Council cost; The curation and ongoing maintenance of the turf wicket is at the clubs cost
Fee types for seasonal allocations: Ground fee Pavilion fee Utilities Other	Ground fee Pavilion fee Utility fee	Seasonal fee Utility/services fee Licence administration fee
% of cost recovery	20% has been suggested but with no justification as to why	Generally 15% but may differ between clubs based on historical charges/percentages
Is there a community club discount/incentive available?	A potential option, depending on charging methodology chosen	**No**
Discount/incentive criteria	Yet to be decided, but based on Council priorities. Could include: • Early bird payment • Sharing of facilities • Getting groups in the pay for use of the facilities when they aren't using them (income for Council) • Providing community benefit • Women's, junior, all-abilities teams	Looking at female and junior participation subsidies in the future to encourage: • Female participation to grow • Gender equity Strat. by 2030 • Can access grants in this area

Attachment 2 - Local Government Benchmarking

What discounts are provided for other community user groups?	Yet to be determined	**Primary Schools: exempt from** sportsground and pavilion **charges** for usage occurring during the **normal course of a school day/term** **Secondary Schools:** will be **charged a flat sessional rate** • No consistent way to determine this charge • School by school based on historic charges • Need to review this **All Schools:** if a school has it's own sportsground that is not occupied at the time, the school has built over a significant proportion of it's previously available open space or where usage occurs outside of school hours, **a flat sessional rate will be applied** **Other:** • No other discounts groups at the moment • Looking at a management model with community services to get more community groups using sports pavilions
Are grounds classified into groups?	A potential option, depending on charging methodology chosen	**Yes (Grounds and pavilions are classified together into one classification)** AA - Regional facilities A - Highest Quality B - Medium Quality C - Lowest Quality
Classification Criteria	N/A	• Facilities quality • Supporting infrastructure - Classifying facilities is for the purpose of allocating the appropriate levels of competition to the grounds i.e. knowing which are the 'premier facilities' that can be offered for finals
Are pavilions classified into groups?	A potential option, depending on charging methodology chosen	**See above:** • Grounds and pavilions are classified together into one classification
Classification Criteria	N/A	**See above:** • Grounds and pavilions are classified together into one classification
Fees summary	Currently historial. Consistent future fees are yet to be determined	Nil The cost to replace is for each individual pavilion, not the average of all pavilions in each classification
Yearly increase	CPI	Updated by CPI OR maintenance costs are updated each year. Council are yet to decide what method they will use moving forward
Bond	No bond collected	No bond collected
Costs council are responsible for	Glen Eira have a comprehensive table of who is responsible for what (see below)	List included in Sports clubs user guide (this doc has just been reviewed)
Costs tenant clubs are responsible for	Glen Eira have a comprehensive table of who is responsible for what (see below)	List included in Sports clubs user guide (this doc has just been reviewed)
Casual use: **Fees and charges:**	• As per Council annual budget • Not sure how casual fees are determined	**Commercial Use:** The charging methodology with a recovery rate of 100% of sessional rate and potential additional fees subject to negotiation depending on term of use, derived community benefit, impact on surrounding amenity and exclusive use of public facilities **Casual Use:** as per Council's Schedule of Fees as determined through Council's annual budget process. Suitability of use will be in consideration of the nature of the intended use, potential community benefit, and the resultant impact on the seasonal and/or the community. Casual Use is divided into 4 categories: 1. School 2. Community 3. Corporate (not for profit activity) 4. Corporate (commercial activity)

Attachment 2 - Local Government Benchmarking

Key considerations, issues and challenges - What is working well and not working well?	**Key considerations for the new policy:** • The implementation plan is going to be the most important part, as costs may change significantly for clubs - May need a long term incremental implementation • Councillor buy-in at the start is important - need a stance • Include key stakeholders, especially sports clubs in the journey • Do we charge winter and summer clubs the same fees? - More maintenance of sportsgrounds is required at different times of the year and some activities have a greater impact on the overall condition of the sportsground?	• Everyone is pretty happy right now • In the review process, the increase in charges will be a challenge to manage with clubs

Attachment 2 - Local Government Benchmarking

Allocations	Stonnington	Bayside
Document	• **'Terms and conditions of use' Seasonal use of sportsgrounds and pavilions** • **'Sports Grounds and Pavilion allocation and charging policy'**	**Sports Facility Users Guidelines.** **No formal Policy**
Stakeholder interview	**Stakeholder interview complete**	**Stakeholder interview complete**
Who/what the Policy applies to: Seasonal allocation Leases Licenses Casual hire	**Seasonal allocation/Licence:** Yes **Lease:** No (Only 1 sports club on a lease) **Casual hire:** No (booking are made on a needs basis as they are requested, similar to school bookings)	**Conditions of use includes:** **Seasonal allocations:** Yes **Lease:** No (buildings are managed by the property team) **Casual bookings:** No (don't fall under the same allocation requirements)
Objectives of the policy - What do you want the policy to achieve/Issues that policy is addressing	• To provide a **framework for the allocation** of Council's sportsgrounds and pavilions • To provide **equity in the process** of allocating Council sportsgrounds and pavilions • To encourage **increased participation** in sport and recreation by all sectors of the community • To establish the basis of lease, licence and permit **conditions for the allocation** of Council's sportsgrounds and pavilions • To encourage **optimum** use of Council's sportsgrounds and pavilions	• **Optimise participation** in sport and recreation on Council owned or managed sportsgrounds • Enable Council to address the **needs of growth sports**
Allocation principles - What guides how you allocate grounds	• **'The Business of Sport** - Allocate sportsgrounds and pavilions to **maximise the community benefits of organised sport and recreation**, but also make them **available for passive recreation** when not being used by clubs • **Equity** - to encourage the utilisation of sportsgrounds and pavilions from groups actively supporting the participation of **juniors, older adults, women and people with disabilities** • **Diversity** - maintains and encourages **diverse and multiple use** of Council's sportsgrounds and pavilions	• Ensure sportsgrounds and pavilions are **allocated to clubs with sound governance structures, open membership, elected committees and a demonstrated commitment to social responsibility** • **Minimise over use of sportsgrounds** with efficient facility allocation and elimination of inappropriate use
Types of allocation/agreements	• Seasonal allocation • Casual bookings: includes preseason • School bookings • Lease agreements	• Seasonal allocation – a tenant club; • School bookings • Casual bookings (includes tenant club finals) • Lease agreements
Allocation periods - seasonal dates	**Seasonal:** Winter 1 April - 2nd Sunday in September or end of fixtured season; Summer 1 October - 2nd Sunday in March or end of fixtured season **Pre-season:** Winter 1st week of Feb; Summer 1st week of September	**Seasonal:** Winter starts April 1; Summer starts October 1 - start of winter tenancy (Allow 3-4 weeks in between for maintenance)
Hierarchy of allocation - Order of priority of groups	**1.** Community sports clubs are first priority - Other community groups go through the venues booking team to use recreation centre centres **2.** Then consider School groups **3.** Casual use – Whenrever it can fit	**1.** Council endorsed major events **2.** Bayside community club sport matches - in season matches affiliated by peak body **3.** Bayside community club sport training **4.** Bayside primary school competition during school hours **5.** Bayside secondary school competition during school hours **6.** Bayside community club preseason training and matches **7.** Primary School training during school hours **8.** Secondary school training during school hours **9.** Other bayside community organisations **10.** All Others
Allocation criteria - What MUST a Club satisfy in order to be awarded an allocation	• Returned all keys issued in any previous season • Paid all charges levied by the Council, including fees associated with the forthcoming season • Made good any damage or paid all costs related to any damage in a previous season * Then Based on allocation consideration ratings and weightings	• Clubs who have outstanding debt owing to cancel or incomplete applications will not be considered until this is rectified • Allocation considerations (below) are only applicable if two are more clubs have applied for allocation to the same sports ground and can't facilitate shared use • The only exclusion criteria is if an application receives a 'zero' allocation score
Allocation considerations - things that will be taken into consideration/weighted that influence an allocation	• Existence of a sound business plan • Degree to which the club/organisation supports junior, female and veterans sport • Alignment of club/organisation's objectives to Council's objectives • Opportunities for spectators • Degree to which the occupant has contributed to capital development • Percentage of Stonnington residents within club/organisation membership • Level of competition to be played • Past, present and future financial viability • Historical use of facilities within the City of Stonnington • Club/organisation's ability to optimise usage of facilities • Record of tenancy within other local municipalities **Many allocation are historical and clubs generally receive allocation year on year**	• Historical use of facilities • Tenancy record • Financial status • Division of sports seasons • Governance • Hierarchy of sportsgrounds • Ground capacity • Capital works investment • Under-represented target group participation - (see doc for more information on assessment criteria and the associated guiding principles)

Attachment 2 - Local Government Benchmarking

Application process - operational	• Applications for the use of sportsgrounds and pavilions must be submitted on the prescribed forms obtainable from the Sport & Recreation Officer, Recreation Services. • Application forms must be lodged by the due date and late applications will not be considered. • The application form must be fully completed and all requested information included prior to it being considered and decided on by the Council	**Step 1.** Seasonal sportsground applications are sent to clubs electronically **Step 2.** The club submits the tenancy application to Council with all required documentation by the due date. Applications will not be considered until all mandatory documentation has been received by Council. **Step 3.** Applications are assessed against set criteria. Clubs with outstanding debts owed to Council will not have their applications considered until all debts are paid in full or a payment plan is approved. **Step 4.** All clubs will receive written notification of their allocation. If a club is dissatisfied with their allocation they may contact Council to discuss further. Allocation offers must be acknowledged and signed by clubs prior to formal or organised use of Council owned or managed sporting facilities.
Application requirements - documents required	• Previous season's Annual Report, financial statement and membership information including: i. names and contact details of Club Office Bearers ii. numbers of teams to be fielded iii. number of Club members iv. street address, postcodes, gender, age and competition level of all registered players • Team competition fixtures • Certificate of Incorporation • Public Liability Policy of Insurance • Permit or licence to sell or consume liquor • Permit to sell and prepare food • Risk Management Plan • Food Registration • Key Request form • Code of Conduct	• Public liability insurance • Incorporation certificate • Annual report • Annual financial statement and balance sheet • Food act registration • Liquor licence • Good sports accreditation – requirement • Risk management plan • Clubs training plan – schedule and requirements for pavilion • Seasonal hire request form – team details, which competition, training venue and times, comp venue and times etc
Exclusivity - What does 'allocation' entitle the user group to?	Exclusive use during allocated times	• Pavilion allocation - exclusive access • Ground allocation - Council can't officially close the grounds, people are allowed to walk around the reserve • Local law states that dogs can't be off-leash within 20m of organised sport
Subletting	Not allowed	Not allowed
Withdrawal of sportsgrounds and pavilions allocations	• Sportsground playing surface has been adversely affected by the **drought** and requires **preservation and maintenance** to secure future use and to minimise user risk • Sportsground is unplayable due to **inclement weather** • Sportsground is **unsafe** for match play • Sportsground is required to undertake **surface repairs and/or redevelopment works** • Sportsground and pavilion is required for a Council approved **community event** (i.e. "Carols by Candlelight") • Pavilion is required to undertake **major capital works** **• Breach of the "Conditions of Use"**	**• Risk management issues** **• Works and maintenance** • Managing the **sustainable use of the sportsground**(s) **• Environmental factors** • To improve individual **club sustainability** • Other reasons determined by Council
Reporting requirements - What are the reporting requirements?	• Membership information including: - Names and contact details of Club Office Bearers - Numbers of teams to be fielded - Number of Club members - Street address, postcodes, gender, age and competition level of all registered players	At the start of the season clubs are required to provide member details including: • Number of participants • Participant demographics • Number of teams • Post code (are they bayside residents) this information allows council to track growth
Key considerations, issues and challenges - What is working well and not working well?	**Working well:** • There are a lot of community sports club with long history at their home grounds • Council try and accommodate other groups when and where there is space **Challenges:** • Availability of green space - Clubs are growing, especially soccer and football • Have converted one oval to synthetic, with a brand-new pavilion – everyone wants to use it – challenge to ensure allocation is equitable	**Challenges:** • Finding the balance, not allocating too many teams conditions to ensure the ground holds up for the entire season – especially winter tenancy • Managing residents and club conflict – ensuring clubs' behaviour is appropriate and sports ground lights are on at appropriate times etc • Clubs – have to chase clubs for information and keep track of/keep them accountable for documents (and expiry dates) **Working well:** • Mostly working well - not looking to change allocation proccesses • Clear spreadsheet on who's using what when
Fees and charges	**Stonnington**	**Bayside**
Document	**Sports Grounds and Pavilion allocation and charging policy**	**Sports Facility Users Guidelines** **Council Annual Budget** **Don't have a Policy**

Attachment 2 - Local Government Benchmarking

Objectives - What do you want the policy to achieve/issues that policy is addressing	• To provide **equity in the charging** for use of Council sportsgrounds and pavilions • To encourage **increased participation** in sport and recreation by all sectors of the community • To establish the **basis of** lease, licence and permit **conditions** for charging for use of Council's sportsgrounds and pavilions • To **encourage optimum use** of Council's sportsgrounds and pavilions	N/A
Fees and Charges Principles - What guides decisions on how much is charged?	• Partnership - an opportunity to develop partnerships with **Clubs to improve or develop facilities** is essential to the long-term viability of Clubs and facilities • Seasonal charges should be **related to the cost of providing** sportsgrounds and pavilions • Charges should account for **variable usage** i.e. reflective of the time used • The system of charging should be **simple to administer** and **acceptable to users**	• Each sportsground and pavilion is categorised according to its current **standard** and **charged according** to these categories. • Costs associated with the use of sports infrastructure are **heavily subsidised** by Council **to encourage an active and engaged community**. • Fees and charges **reflect** both the **standard of the facilities** and Council's **annual maintenance costs**
Pricing Model: 1. Recouping a percentage of maintenance costs 2. Set fee depending on ground classification 3. Other	**Percentage of cost recovery:** Fee calculation for **ground** includes: Maintenance only Fee calculation for **pavilion** includes: Maintenance only • Specific to each individual venue (therefore each ground has a different maintenance cost) • Value of maintenance was calculated in 1996 – added to 3% each year • Probably need to be updated	**Set fee depending on ground/pavilion classification:** Fee calculation for **ground** includes: TBC Fee calculation for **pavilion** includes: TBC
Charging method and components	**Seasonal fees will be calculated as follows:** **1. Total Maintenance Cost** for each facilitity is provided: - by the Park Services for sports grounds - by Property Management Agency for Pavilions **2.** This cost is divided by the **total number of Units of time available** over a year (468 units) to arrive at a **unit cost**. **3.** The unit cost is **multiplied by the number of Units used by a Club multiplied by the number of weeks within a season** (26) to arrive at a **gross charge.** - (a facility is available 5 nights per week and 4 half days per weekend, being nine units per week in total) **4.** The **percentage Council wishes to recover** from users of sportsgrounds and pavilions is applied to arrive at the Club's charge. • Maintenance costs relate only to that area used as a playing field and not the periphery that may often include grassy surrounds and/or play equipment • There is no difference in what summer and winter clubs are charged (except for turf wicket additional charge)	TBC • Charges are based on Council annual budget and previous season fees • While Clubs should be charged what is in the budget, there is a rule that fees can't increase more than 10% a year for Clubs - Therefore some Clubs who have been paying lower amounts for whatever reason, may not be paying the full amount yet as the increase needed to reach this would exceed 10%
Additional fees	**Utilities fee:** • Water (50% clubs; 50% Perks) • Gas, electricity etc (proportion depending on hours of use; all users together pay 100%) - Council is paying for light use when turned on for community use **Turf wicket maintenance:** incurs an additional charge on top of the ground charge. It is 40% of preparing the wicket.	**Utilities Fee:** Clubs pay all utilities including sports ground lighting **Building Insurance:** amount varies for full use or weekend only use

Attachment 2 - Local Government Benchmarking

Fee types for seasonal allocations: Ground fee Pavilion fee Utilities Other	Ground and pavilion fee combined Utilities fee Turf wicket fee	Ground Fee Pavilion Fee Utilities Fee
% of cost recovery	40% (Don't know why it is set at 40% but it's the way its always been – will probably be reviewed soon)	TBC
Is there a community club discount/incentive available?	**No** - Have spoken about it internally, but it hasn't gone further than that • To encourage clubs to be more inclusive, have female teams, share facilities etc • They have a lot of clubs who are stuck in their ways, particularly historic football clubs	**No** Clubs pay a discounted fee if pavilion is under reconstruction
Discount/incentive criteria	N/A	N/A
What discounts are provided for other community user groups?	**Primary school: Exempt** from sportsground and pavilion **charges** for usage occurring **during the normal course of a school day/term.** **Secondary schools:** Will be charged a **nominal hiring fee of $10 for every 3 hours of usage** on each individual sportsground and pavilion during the normal course of a school day/term. However, the full seasonal rate will apply under the following circumstances: - where schools have their own sports fields yet elect to use Council's facilities. - Where usage occurs outside school hours e.g. Saturday morning	School groups pay a heavily subsidised rate for use of sportsgrounds • **Primary School:** $111 per ground per term • **Secondary School:** $188 per ground per term **Community building hire:** 75% discount is provided to community groups
Are grounds classified into groups?	**Yes** • Tier 1 • Tier 2 - Only for the purpose of what sort of competition to allocate to each ground	**Yes** • Category A • Category B • Category C • Category D
Classification Criteria	• Condition of field • Field size	• Capacity/suitability for high levels of competition • Play surface type and quality • Fencing • Sports ground lighting
Are pavilions classified into groups?	**No**	**Yes** • Category A • Category B • Category C
Classification Criteria	N/A	Based on standard and the ability of the venue to accommodate competition: • Usage suitability and requirements • Change room facilities including players, umpires, first aid facilities and toilets • Social rooms – size, standard, ability to generate income • Kitchen Facilities • Accessibility • Storage • Risk – security lighting, DDA, etc
Fees summary	**Example:** Tier 1: $75-120 per unit Tier 2: $45-60 per unit	**Sports ground by season:** Category A $2,730 Category B $1,456 Category C $894 Category D $541 **Primary School:** $111 per ground per term **Secondary School:** $188 per ground per term **Seasonal use of pavilions:** Category A $1,456 Category B $723 Category C $447 **Building insurance:** $447 (per season full use) $138 (per season w/end only use)
Yearly increase	3%	TBC
Bond	Bond is for keys or swipes card only: • 1 Key: $150 • 2-6 keys: $500 • $1500 for anything above that	• No bond charged • If there is damage that needs to be fixed, Council undertake the works and on charge to Clubs • Clubs are required to have building insurance
Costs council are responsible for	No list: • Currently a grey area • Trying to put one together	Bayside have a comprehensive table of who is responsible for what is terms of maintenance
Costs tenant clubs are responsible for	No list: • Currently a grey area • Trying to put one together	Bayside have a comprehensive table of who is responsible for what is terms of maintenance

Attachment 2 - Local Government Benchmarking

Casual use: **Fees and charges:**	• As per Council annual budget • Not sure how casual fees are determined	• As per Council annual budget • Not sure how casual fees are determined
Key considerations, issues and challenges - What is working well and not working well?	**Working well:** • Charge across 2 invoices (50% start or tenancy, 50% start of the financial year) • Clubs understand how they are charge (charged per sessions, not per hour) - 1 hour or 4 hours charged the same, so clubs won't ask for additional nights, but this does not stop clubs booking for 4 hours even if they only need it for 2 hours **Other:** Where clubs wish to develop facilities beyond a basic level considered appropriate for community use then the following options exist: **1. Funding the project outright** Club's developing facilities on leased premises where the Clubs would be the main beneficiary of such development may be expected to fund the project to 100% **2. Partnership with Council** Council may fund a portion of the project, with the Club(s) funding and/or securing a loan to fund the remaining portion. In percentage terms Council contributes one third of the capital cost, the applicant club contributes two thirds.	• All working relatively well • Not looking to change fees and charges processes at this point

Attachment 2 - Local Government Benchmarking

Allocations	Moreland	Yarra
Document	**Allocation and Use of Sporting Facilities, Grounds and Pavilions Policy**	**Conditions of use agreement for sports grounds and pavilions** **No Formal Policy (looking to develop one)**
Stakeholder interview	**Stakeholder interview complete**	**Stakeholder interview complete**
Who/what the Policy applies to: Seasonal allocation Leases Licenses Casual hire	**Leases: Yes** **Seasonal allocation/Licence: Yes** **Casual hire: No** 3 revisions of the policy • Initially it only applied to seasonal allocations • Revised 3 years later to include leased clubs • Revised in 2016 so that all clubs must have female teams	**Conditions of use includes:** **Seasonal allocation/licence:** Yes **Lease:** No **Casual bookings:** No (e.g. school groups have modified conditions of use - 1 pager0
Objectives of the policy - What do you want the policy to achieve/Issues that policy is addressing	• To **increase participation** in sport and physical activity for **women and girls, juniors, people with a disability and people from Culturally and Linguistically Diverse backgrounds** • Ensure **Moreland residents** are **more active more often** at all stages of life • Provide a **diverse range of recreation opportunities** that reflect our diverse community • Provide **supportive environments and facilities** which encourage participation • Increase the number of participants, members, coaches, officials, spectators and volunteers by **reaching new audiences** • Enable Council to address the **needs of growth sports**	**Current and future objectives for allocations:** • Provide **equitable access** • Ensure **Sustainable participation** - As much participation as possible - Make sure that grounds are not subject to too much load – ensure longevity • **Inclusive Club environment** - Seasonal Clubs are required to actively promote gender equity and respectful relationships in areas of the facility, including all players, families, coaches and Committees
Allocation principles - What guides how you allocate grounds	• **Maximise participation** in sport and recreation on sporting facilities, grounds and pavilions • **Prioritise** the allocation and use of sporting grounds and pavilions to clubs which are **inclusive** of females, actively support juniors, people with disabilities and people from culturally and linguistically diverse backgrounds (CALD) to participate in sport and recreation • Ensure sporting facilities, grounds and pavilions are allocated to **clubs with sound governance structures, open membership, elected committees and a demonstrated commitment to social responsibility** • 'Our Clubs are our clubs' – Moreland are at capacity with sports ground allocations so currently don't bring in any new clubs	• **Shared use and multi-use** • **Equitable access** • Heavily weighted towards **historical/long-term tenants**: - Where possible Council keeps offering provision to them - If new clubs pop up Council want to work with them also
Types of allocation/agreements	• Annual • Seasonal allocation • Pre-season • Casual bookings • School bookings • Lease agreements	• Seasonal allocation • Leases and licences are given to certain clubs – e.g. athletic have annual - Currently managed through property team - Are looking at how they can streamline the process between Council departments moving forward • Don't currently hire out pavilions outside of allocations - Will look at this moving forward – how to best utilise the space - SEDA has a school booking, which is an ongoing booking during the day
Allocation periods - seasonal dates	**Annual:** 1 April - 31 March **Seasonal:** Summer 1 October to 29 Feb; Winter 1 April - 31 August **Pre-season:** Summer 1 September - 30 September; Winter 1 March-31 March **School:** Term bookings during school hours	**Seasonal:** Winter 1st April – 1st Sept (and then finals and ground handover) Summer 1 October – 1st March (and then finals and ground handover) **Pre-season:** Winter Jan-march Summer Aug-Sept NB • Some sports such as Soccer are pushing to become a 12-month sport
Hierarchy of allocation - Order of priority of groups	**1.** Seasonal allocations take precedence - Usually its sporting and community recreation clubs - A couple of dog clubs - All allocations are endorsed by Council **2.** Casual and school hire works around the allocations	**1.** Sports clubs are priority • Hierarchy based on allocation Criteria • If multiple clubs want the same allocation, can look at ground share and alternate venues **2.** Casual bookings are scheduled outside of those times

Attachment 2 - Local Government Benchmarking

Allocation criteria - What MUST a Club satisfy in order to be awarded an allocation	• Registered with the appropriate State Sporting Association • Sound governance structures in place and have elected committees • Open membership for men, women, juniors and a demonstrated commitment to social responsibility • Participate in all Club Development initiatives, programs and workshops offered by Council • Club names that are representative of the Moreland geographic area within which the club is located and shall not make reference to any ethnic name, slogan, sponsor of business • Policies and strategies to increase the participation, general health and wellbeing of juniors, girls and women • Provide programs that increase the participation, general health and wellbeing of juniors, girls and women • Membership provides: - Junior teams/sides - Female teams/sides - registered sport association development programs - Female representation on club committee and/or board	Based on allocation consideration ratings and weightings
Allocation considerations - things that will be taken into consideration/weighted that influence an allocation	**Priority will be given to clubs that:** • Are inclusive of people with disabilities, and actively support juniors, females and people from culturally and linguistically diverse backgrounds (CALD) to participate in recreation • Demonstrated participation by Moreland residents • Comply with all previous occupancy requirements • Complete significant capital works to the satisfaction of Council **Council will also consider the following variables:** • Council's Sporting Facilities, Grounds and Pavilions Policy 2016 • User Group's previous record e.g. fees paid on time, cleanliness and care of the facilities, timely return of facility keys • User Group has no outstanding debts (including outstanding utility and State Sporting Association fees) • Number of teams registered in competitions with recognised associations • Current and proposed planning and effective management of the club • User Group's contribution to facility upgrade/s • Facility suitability assessment to ensure the activity is suitable from a risk perspective • Sport growth and user trends • All information required to complete the allocation process is received by the due date	• Unblemished tenancy record over the preceding seasons (30%) • Record of past, present and future financial viability (20%) • Percentage of Yarra residents who are registered club members (20%) • Degree to which the club supports and encourages participation by juniors, women and people with disabilities within their sport (20%) • Clubs ability to optimise usage of facilities while keeping the facilities to a good standard • Historical use of facilities within Yarra
Application process - operational	**Step 1** - Council will send notification to clubs that applications for sports ground tenancy are open via email **Step 2** - The club completes the online application and submits to Council **Step 3** - Applications are assessed. Clubs with outstanding debts with Council and utility service providers will not have their applications considered until debts are paid in full or an approved payment plan is made **Step 4** - Council Officers submit a sports ground allocation recommendation report to Council for adoption **Step 5** - Once the sports ground allocation report is adopted, all clubs will receive written notification of their allocation within 14 days	• Council send an email to all tenants with a link to a survey advising that allocation is open
Application requirements - documents required	• Certificate of Incorporation • Public liability insurance • Liquor licence • Food registration • Strategic plan (required to have) • Sport Club Constitution • AGM minutes • Annual report	• Certificate of Currency • Club Annual Report • Club Financial Report • Club AGM Minutes • Playing Member Post Codes (from last year) • Proposed pavilion cleaning schedule • Proposed Training Schedule (by team and location) • Liquor License (if applicable) • Food Premises Registration (if applicable) • Other information as required within the Conditions of Use

Attachment 2 - Local Government Benchmarking

Exclusivity - What does 'allocation' entitle the user group to?	• Exlusive use during allocated times - Council can hire out to other groups at other times - Dogs must be on leash within 15 meters of organised sport	Exclusive use during allocated times
Subletting	Not allowed	Not allowed
Withdrawal of sportsgrounds and pavilions allocations	• Not meeting the allocation requirements • Allocation **fees are not paid** within two (2) months of the due date for payment • The club **breaches terms and conditions** of the agreement and after having been given notice in writing of the breach, the Club fails to remedy the breach within one (1) month • An order is made or a resolution is passed for the winding up of the club • **Ground condition:** - Each ground has a recommended hours of use - Occasionally Council may have to close grounds to ensure they are fit for sports competition - Clubs have a secondary ground which they can use	• The **grounds are unsuitable** for play • The **Pavilion** is in an **unsuitable condition** for use • Increasing damage and **deterioration to the playing surface** could result from excessive usage • Programmed **capital works or maintenance** needs to be undertaken • Seasonal Club commits, permits, or allows any **breach** or default in the performance or observance of any of these **Conditions** • Seasonal Clubs must adhere to the **Victorian Code of Conduct for Community Sport,** which outlines behaviours that are expected of every person involved in community sport and active recreation
Reporting requirements - What are the reporting requirements?	• Minimal: - Updates on strategic plan and how Clubs are tracking - Membership numbers throughout the season and (Council reaffirm with state sporting associations)	• Clubs must report at the end of the year (Sent through a survey link) • Clubs need to provide evidence for each of the discount criteria **Moving forward Council is going to request more data from clubs:** • Get more of an understanding of **load on grounds** - Not just allocated hours of use, but how many people are training for how long during an allocated session i.e. the **number of feet on the ground** and **intensity of use** • To better **inform decision-making** around turf and ground management - Which grounds can cater to what load • Better understanding of **wider club use and trends** - Participants and volunteers - Down times and groups who gravitate to certain grounds • To **inform future plans** for how to facility is to be used and a broader participation plan
Key considerations, issues and challenges - What is working well and not working well?	**Working well:** • All clubs are compliant now – every club has female and junior teams • Council has built good rapport and relationships with clubs and state sporting associations • Strength in alignment – Everyone at Moreland has championed the adopted policy – Councillors to CEO to director to managers to state sporting associations • There have been positive responses and acknowledgement of the policy from the community and the State Government **Negative:** • Some push back in the initial stages of implementation • Culture of the clubs – most met the policy way before the deadline, but Council has to toe the hard line with other clubs • Some clubs decided to move on	**Challenges:** • Data gathering • Clubs requesting allocation for more hours than they need • Educating clubs on the allocation process, why we do it and how it works • How to monitor the actual hours clubs are using the grounds, and ensure they stick to their allocated hours • Chasing required documentation from Clubs – year on year committees change • Sometime a change in fixture or ground change request is organised between the club and governing body and not always communicated to Council – this creates potential for booking clashes and ground not being ready i.e. lines not marked etc • Support from some Sporting bodies is better than others • Alignment of messaging from Governing body and Council to clubs **Future considerations:** • Automated booking system - less manual processing and administration hours **Working Well:** • Turf team assess ground condition every week and report back with any issues • Historical ties can cause expectations, but also mean that there isn't great deal of fighting for certain venues
Fees and charges	**Moreland**	**Yarra**
Document	**Sporting Facilities Grounds and Pavilions User Guide** **No Policy**	**Sports Ground and Pavilions Conditions of use Agreement. Don't have a formal policy in place. Have 'guiding principles of fees and charges structure' which is likely to be reviewed in near future**
Objectives - What do you want the policy to achieve/issues that policy is addressing	• Recovery some costs - Not out to make a profit - The maintenance of ovals is factored into the Council budget as a service to the community	N/A
Fees and Charges Principles - What guides decisions on how much is charged?	• Council **subsidise** the cost related to maintenance of sports grounds and pavilions **according to their grading level** • Fees are calculated to **recover a proportion** of these expenses • Council considers this fee to be a **Maintenance Recovery Level** • Costs for use of each facility during the winter and summer **season** shall be **consistent**.	• Ensuring community access to facilities and **making sport more available** • **Not** a money-making venture • **Equitable access**

Attachment 2 - Local Government Benchmarking

Pricing Model: 1. Recouping a percentage of maintenance costs 2. Set fee depending on ground classification 3. Other	**Set fee depending on ground/pavilion classification:** Fee calculation for **ground** includes: percentage of maintenance cost (calculated per square metre). The percentage of cost recovery increases from 10-20% depending on ground classification Fee calculation for **pavilion** includes: percentage of pavilion maintenance plus staff cost. The percentage of cost recovery increases from 10-20% depending on pavilion classificiation	**Percentage of cost recovery:** Fee calculation for **ground** includes: Ground preparation and maintenance Fee calculation for **pavilion** includes: Maintenanace Loosely based on maintenance costs. Historical and increased by CPI each year
Charging method and components	**Seasonal fees:** • Each reserve and pavilion is graded according to the level of maintenance with higher grades reflecting higher maintenance costs • Charges are developed taking into account ground and facility grading, as well as overall maintenance costs • Council only recoups approximately 10% to 20% of total expenditure related to maintenance of sporting reserves and pavilions according to grading level • Fee structures will reflect seasonal and annual occupancy rather than exclusive occupancy • Where more than one club shares the use of a sport ground and/or pavilion, each club will be charged a proportion of the fee amount • Fees and charges will be indexed yearly in accordance with a percentage increase in CPI or any other factors that Council deems appropriate in relating the fee to the cost	**Seasonal fees:** • Category A and B grounds are charged at different rates • Category A and B pavilions are charged at different rates • Charges are seasonal • Charges are per team, not per club • Council aims to recoup 20% of maintenance costs from tenants • If clubs can provide evidence that they meet council values, they can get close to getting 100% subsidy
Additional fees	• **Turf wicket:** Given the high costs associated with turf wickets, higher cost recovery is considered appropriate. 15% of cost recovery • **Utilities:** Clubs are responsible for paying the utility charges related to their seasonal use. - Where clubs share facilities, each club will be responsible for a percentage of the utility charge and this should be negotiated between clubs	**Sports lighting:** Clubs are charged 100% of their usage. KW per week per week **Utilities:** Included in seasonal fee - not charged seperately
Fee types for seasonal allocations: Ground fee Pavilion fee Utilities Other	Ground Fee Pavilion Fee Utilities Turf Wicket fee Synthetic surface fee	Ground Fee Pavilion Fee Sports lighting fee
% of cost recovery	10-20% depending on the quality of the facility	20%
Is there a community club discount/incentive available?	**Yes** **Amount:** 25% maximum for standard clubs. 50% maximum for junior clubs	**Yes** **Amount:** percentages are variable depending on ability to meet criteria - see below
Discount/incentive criteria	Clubs will be required to apply for discounts seasonally / annually with applications being assessed in conjunction with their rental review: • An active community program or a recognized State Sporting Association development program • Participation in Council's Club Development Initiatives • Active registered competition teams for Women and Girls or All Abilities • Junior ONLY club	• Percentage of Yarra residents (20-30%) • Junior Participation (10% per boys team max 60%; 15% per girls team, max 90%) • Women Participation (15% per team, max 60%) • Older Adults (10% per team, max 20%) • People with a disability (10%) • social housing tenant participation (10%) • CALD communities (10%) • Club Development Program (5%) • Responsible Serving of Alcohol (5%)

Attachment 2 - Local Government Benchmarking

What discounts are provided for other community user groups?	**Primary school:** Schools **within Moreland don't pay**, schools **outside of Moreland pay casual use rate** **Secondary schools:** Schools within Moreland don't pay, schools outside of Moreland pay casual use rate **Other:** Playgroups and seniors groups	**Primary school:** Schools **within Yarra** are not charged, **other schools** are charged a **concessional rate** **Secondary schools:** Schools within Yarra are not charged, other schools are charged a concessional rate **Other:** Not for profit community organisations are charged a concessional fee
Are grounds classified into groups?	**Yes** • Premiere • Class A • Class B • Class C	**Yes** Category A (10 grounds) Category B (6 grounds)
Classification Criteria	**See table below:** • Capacity/suitability for high levels of competition • Playing surface type and quality • Fencing • Sports ground lighting • Seating • Car parking • Level of management and maintenance	• No specific criteria - Working with turf management team to set specific criteria • Based on quality of the facility and what it provides
Are pavilions classified into groups?	**Yes** • Class A • Class B • Class C	**Yes** Category A Category B
Classification Criteria	Based on the ability of the venue to raise funds and accommodate competition: • Change room facilities including players, umpires, first aid facilities and toilets • Social rooms - size, standard, ability to generate income • Kitchen facilities • Accessibility • Storage • Risk - Security lighting etc	• No specific criteria • Based on quality of the facility and what it provides
Fees summary	**Sports Ground by Season:** Premier: $5,429.40 Class A: $2,897.00 Class B: $2017.90 Class C: $1321.25 **Pavilion by season:** Class A: $1,613.90 Class B: $1,321.25 Class C: $330.25	Different for each club depending of which ground and pavilion they use
Yearly increase	Indexed yearly in accordance with a percentage increase in CPI (3%) or any other factors that Council deems appropriate in relating the fee to the cost.	CPI
Bond	$500 (collect once and maintain it)	$400 (covers ground, pavilion and 2 sets of keys) Additional charge for extra keys
Costs council are responsible for	Moreland have a comprehensive table of who is responsible for what is terms of pavilion maintenance	**Council will provide the following for Sports Grounds:** • All turf and ground maintenance • Maintenance of irrigation system • Public Toilet Cleaning (only those public toilets available to the general public) • Public BBQ Cleaning • Line marking • Maintenance of goal posts. **Council will provide the following for Pavilions:** • Building Insurance • Repair of damage caused by vandals, including repair or replacement of exterior broken glass and graffiti removal, except to the extent that such damage is caused or contributed to by the Seasonal Club's negligence • Maintenance of the building structure and boundary fencing • Plumbing and electrical works • Replacement of water service as required, unless the need for plumbing or electrical works or replacement of the water service has arisen as a result of the Seasonal Club's negligence
Costs tenant clubs are responsible for	Moreland have a comprehensive table of who is responsible for what is terms of pavilion maintenance	Some of what Club are responsible for is contained in the conditions of use - Yarra is working on updating it now

Attachment 2 - Local Government Benchmarking

Casual use: **Fees and charges:**	• Casual fees are not determined by a formula • Historic more than anything • Determined through benchmarking in 2007/08 and increase by CPI each year	• Casual fees are not determined by above formula
Key considerations, issues and challenges - What is working well and not working well?	**Working well:** • All clubs are comfortable with the charging process - Did a thorough consultation process before implementation – held forums, explained the formulas etc - Gave clubs ample time to digest, work through and respond - Council has good repour and community with clubs, which helps	**Working well:** • Don't have much push back because fees and charges are very low • Clubs generally pay on time, because if they haven't paid they won't have a booking next year • They have a low number of casual bookings - odd bad debtor here or there but not a major issue **Considerations:** • Instantaneous online payments • Don't think there would be a significant increase in fees in the near future due to Yarra's position and social stance – don't want fees to reach a point where they are a barrier to participation • There may be a time where the discount structure has to change to be more self-sufficient – The reality sports ground and pavilion facilities do cost

Attachment 3 - Sportsgrounds and Facilities Cost Assessments

OPTION 1 - Universal Fees and Charges Structure (Not Recommended)

Casual Facility Hire				
Fee Description	**Statutory Price**	**GST Applicable**	**Price Per Hour ($)**	**Percentage of Cost**
Pavilions				
Commercial Pavilion Hire	N	Y	18.31	120%
Concession 1 Facility Hire	N	Y	12.21	80%
Concession 2 Facility Hire	N	Y	3.05	20%
Concession 3 Facility Hire	N	N	0	0%
Sports Grounds				
Commercial Sports Ground Hire	N	Y	40.33	120%
Concession 1 Facility Hire	N	Y	26.89	80%
Concession 2 Facility Hire	N	Y	6.72	20%
Concession 3 Facility Hire	N	N	0.00	0%
Seasonal Facility Hire				
Fee Description	**Statutory Price**	**GST Applicable**	**Price Per Hour ($)**	**Percentage of Cost**
Pavilions				
Hours requested per week X weeks of hire X hourly rate = Season Fee				
Seasonal Pavilion Hire	N	Y	15.26	100%
Sports Grounds				
Hours requested per week X weeks of hire X hourly rate = Season Fee		**GST Applicable**	**Price Per Hour ($)**	**Percentage of Cost**
Sports Ground Seasonal Hire	N	Y	33.61	100%
Turf Wicket Recovery**	N	Y	2500**	100%
Sports Lighting Surcharge*	N	Y	5.76	100%
Personal Training Licence		**GST Applicable**	**Annual Fee ($)**	**Percentage of Cost**
Annual Registration Fee	N	N	316.40	N/A
***Turf Wicket Recovery surcharge is a once off fee for applicable summer season bookings*				
**Sports Lighting Surcharge applicable winter bookings from 5.30pm onwards*				
Concession Rates				
Casual Usage				
Casual usage rates apply for all pre, post and out of season training				
Concession 1	*Non-Yarra based not for profit organisations and private schools*			
Concession 2	*Yarra based not for profit organisations*			
Concession 3	*Yarra based Public Schools*			
Seasonal Hire Subsidies				
Subsidy Level	***Subsidy Percentage***	***Qualification****		
Subsidy Level 1	50%	Allocation Criteria Score between 20 and 29		
Subsidy Level 2	60%	Allocation Criteria Score between 30 and 49		
Subsidy Level 3	70%	Allocation Criteria Score between 50 and 69		
Subsidy Level 4	80%	Allocation Criteria Score between 70+		
Please refer to Yarra's Sportsgrounds and Facilities Allocation Policy to view the Allocation Criteria				

OPTION 2 - Categorised Fees and Charges Structure (Recommended)

Casual Facility Hire				
Fee Description	**Statutory Price**	**GST Applicable**	**Price Per Hour ($)**	**Percentage of Cost**
Pavilions				
Commercial Pavilion Hire	N	Y	18.31	120%
Concession 1 Facility Hire	N	Y	12.21	80%
Concession 2 Facility Hire	N	Y	3.05	20%
Concession 3 Facility Hire	N	N	0	0%
Sports Grounds		**GST Applicable**	**Price Per Hour ($)**	**Percentage of Cost**
Premiere Sports Ground Hire	N	Y	46.13	120%
Concession 1 - Premiere Sports Ground Hire	N	Y	30.75	80%
Concession 2 - Premiere Sports Ground Hire	N	Y	7.69	20%
Concession 3 - Premiere Sports Ground Hire	N	N	0.00	0%
Community 1 Sports Ground Hire	N	Y	40.52	120%
Concession 1 - Premiere Sports Ground Hire	N	Y	26.97	80%
Concession 2 - Premiere Sports Ground Hire	N	Y	6.74	20%
Concession 3 - Premiere Sports Ground Hire	N	N	0.00	0%

Attachment 3 - Sportsgrounds and Facilities Cost Assessments

Community 2 Sports Ground Hire	N	Y	36.79	120%
Concession 1 - Premiere Sports Ground Hire	N	Y	24.53	80%
Concession 2 - Premiere Sports Ground Hire	N	Y	6.13	20%
Concession 3 - Premiere Sports Ground Hire	N	N	0.00	0%
Training Sports Ground Hire	N	Y	28.63	120%
Concession 1 - Premiere Sports Ground Hire	N	Y	19.09	80%
Concession 2 - Premiere Sports Ground Hire	N	Y	4.77	20%
Concession 3 - Premiere Sports Ground Hire	N	N	0.00	0%
Seasonal Facility Hire				
Fee Description	**Statutory Price**	**GST Applicable**	**Price Per Hour ($)**	**Percentage of Cost**
Pavilions				
Hours requested per week X weeks of hire X hourly rate = Season Fee				
Seasonal Pavilion Hire	N	Y	15.26	100%
Sports Grounds				
Hours requested per week X weeks of hire X hourly rate = Season Fee		**GST Applicable**	**Price Per Hour ($)**	**Percentage of Cost**
Premiere Sports Ground Hire	N	Y	38.44	100%
Community 1 Sports Ground Hire	N	Y	33.71	100%
Community 2 Sports Ground Hire	N	Y	30.66	100%
Training Sports Ground Hire	N	Y	23.86	70%
Turf Wicket Recovery**	N	Y	2500**	100%
Sports Lighting Surcharge*	N	Y	5.76	100%
***Turf Wicket Recovery surcharge is a once off fee for applicable summer season bookings*				
**Sports Lighting Surcharge applicable winter bookings from 5.30pm onwards*				
Personal Training Licence		**GST Applicable**	**Annual Fee ($)**	**Percentage of Cost**
Annual Registration Fee	N	N	316.40	N/A
Concession Rates				
Casual Usage				
Casual usage rates apply for all pre, post and out of season training				
Concession 1	*Non-Yarra based not for profit organisations and private schools*			
Concession 2	*Yarra based not for profit organisations*			
Concession 3	*Yarra based Public Schools*			
Seasonal Hire Subsidies				
Subsidy Level	***Subsidy Percentage***	***Qualification****		
Subsidy Level 1	50%	Allocation Criteria Score between 20 and 29		
Subsidy Level 2	60%	Allocation Criteria Score between 30 and 49		
Subsidy Level 3	70%	Allocation Criteria Score between 50 and 69		
Subsidy Level 4	80%	Allocation Criteria Score between 70+		
****Please refer to Yarra's Sportsgrounds and Facilities Allocation Policy to view the Allocation Criteria***				

OPTION 3 - Site Specific Fees and Charges Structure (Not Recommended)

Casual Facility Hire				
Fee Description	**Statutory Price**	**GST Applicable**	**Price Per Hour ($)**	**Percentage of Cost**
Pavilions				
Alan Bain/Barkly Gardens Pavilion & Public Toilets	N	Y	7.18	120%
Concession 1	N	Y	4.79	80%
Concession 2	N	Y	1.20	20%
Concession 3	N	Y	0.00	0%
Alfred Crescent Pavilion	N	Y	23.95	120%
Concession 1	N	Y	15.98	80%
Concession 2	N	Y	4.00	20%
Concession 3	N	Y	0.00	0%
Alphington Park Pavilion & Kevin Crehan Grandstand	N	Y	13.87	120%
Concession 1	N	Y	9.25	80%
Concession 2	N	Y	2.31	20%
Concession 3	N	Y	0.00	0%
Gillon Pavilion	N	Y	17.61	120%
Concession 1	N	Y	11.74	80%
Concession 2	N	Y	2.94	20%
Concession 3	N	Y	0.00	0%
Burnley Park Pavilion	N	Y	14.26	120%
Concession 1	N	Y	9.50	80%
Concession 2	N	Y	2.38	20%

Attachment 3 - Sportsgrounds and Facilities Cost Assessments

Concession 3	N	Y	0.00	0%
Coulson Reserve Pavilion	N	Y	18.88	120%
Concession 1	N	Y	12.59	80%
Concession 2	N	Y	3.15	20%
Concession 3	N	Y	0.00	0%
Fairfield Pavilion (Maxwell Sutherland)	N	Y	11.15	120%
Concession 1	N	Y	7.43	80%
Concession 2	N	Y	1.86	20%
Concession 3	N	Y	0.00	0%
Fitzroy Grandstand	N	Y	37.99	120%
Concession 1	N	Y	25.33	80%
Concession 2	N	Y	6.33	20%
Concession 3	N	Y	0.00	0%
Malcom Graham Pavilion	N	Y	6.90	120%
Concession 1	N	Y	4.60	80%
Concession 2	N	Y	1.15	20%
Concession 3	N	Y	0.00	0%
Johnson/Saunders/Loughnan Pavilion	N	Y	12.52	120%
Concession 1	N	Y	8.35	80%
Concession 2	N	Y	2.09	20%
Concession 3	N	Y	0.00	0%
Ramsden Pavilion	N	Y	13.97	120%
Concession 1	N	Y	9.31	80%
Concession 2	N	Y	2.33	20%
Concession 3	N	Y	0.00	0%
Yambla Pavilion	N	Y	13.18	120%
Concession 1	N	Y	8.79	80%
Concession 2	N	Y	2.20	20%
Concession 3	N	Y	0.00	0%
Ryan's Reserve Pavilion	N	Y	12.32	120%
Concession 1	N	Y	8.22	80%
Concession 2	N	Y	2.06	20%
Concession 3	N	Y	0.00	0%
Stanton Street	N	Y	10.21	120%
Concession 1	N	Y	6.81	80%
Concession 2	N	Y	1.70	20%
Concession 3	N	Y	0.00	0%
Citizens Park Air Raid/Jack Dyer Pavilion	N	Y	15.94	120%
Concession 1	N	Y	10.63	80%
Concession 2	N	Y	2.66	20%
Concession 3	N	Y	0.00	0%
Sherrin Stand	N	Y	61.16	120%
Concession 1	N	Y	40.77	80%
Concession 2	N	Y	10.20	20%
Concession 3	N	Y	0.00	0%
Mayors Park	N	Y	11.48	120%
Concession 1	N	Y	7.65	80%
Concession 2	N	Y	1.92	20%
Concession 3	N	Y	0.00	0%
Sports Grounds		**GST Applicable**	**Price Per Hour ($)**	**Percentage of Cost**
Alan Bain Reserve Pitch	N	Y	45.28	120%
Concession 1	N	Y	30.18	80%
Concession 2	N	Y	7.55	20%
Concession 3	N	Y	0.00	0%
Alfred Crescent Oval	N	Y	32.54	120%
Concession 1	N	Y	21.70	80%
Concession 2	N	Y	5.43	20%
Concession 3	N	Y	0.00	0%
Alphington Park Oval	N	Y	27.72	120%
Concession 1	N	Y	18.48	80%
Concession 2	N	Y	4.62	20%
Concession 3	N	Y	0.00	0%
Bastow 1	N	Y	49.24	120%

Attachment 3 - Sportsgrounds and Facilities Cost Assessments

Concession 1	N	Y	32.82	80%
Concession 2	N	Y	8.21	20%
Concession 3	N	Y	0.00	0%
Bastow 2	N	Y	40.39	120%
Concession 1	N	Y	26.93	80%
Concession 2	N	Y	6.73	20%
Concession 3	N	Y	0.00	0%
Burnley Park Oval	N	Y	27.84	120%
Concession 1	N	Y	18.56	80%
Concession 2	N	Y	4.64	20%
Concession 3	N	Y	0.00	0%
Citizens Park Oval	N	Y	57.82	120%
Concession 1	N	Y	38.54	80%
Concession 2	N	Y	9.64	20%
Concession 3	N	Y	0.00	0%
Coulson Reserve Pitch	N	Y	31.70	120%
Concession 1	N	Y	21.12	80%
Concession 2	N	Y	5.28	20%
Concession 3	N	Y	0.00	0%
Fairfield Oval	N	Y	22.30	120%
Concession 1	N	Y	14.86	80%
Concession 2	N	Y	3.72	20%
Concession 3	N	Y	0.00	0%
Fletcher 1	N	Y	47.00	120%
Concession 1	N	Y	31.32	80%
Concession 2	N	Y	7.83	20%
Concession 3	N	Y	0.00	0%
Fletcher 2	N	Y	27.98	120%
Concession 1	N	Y	18.66	80%
Concession 2	N	Y	4.66	20%
Concession 3	N	Y	0.00	0%
Loughnan Oval	N	Y	59.26	120%
Concession 1	N	Y	39.50	80%
Concession 2	N	Y	9.88	20%
Concession 3	N	Y	0.00	0%
Ramsden St Oval	N	Y	24.24	120%
Concession 1	N	Y	16.16	80%
Concession 2	N	Y	4.04	20%
Concession 3	N	Y	0.00	0%
Ryan's Reserve	N	Y	122.36	120%
Concession 1	N	Y	81.58	80%
Concession 2	N	Y	20.39	20%
Concession 3	N	Y	0.00	0%
Victoria Park Oval	N	Y	44.09	120%
Concession 1	N	Y	29.39	80%
Concession 2	N	Y	7.35	20%
Concession 3	N	Y	0.00	0%
Walker St Oval	N	Y	40.92	120%
Concession 1	N	Y	27.28	80%
Concession 2	N	Y	6.82	20%
Concession 3	N	Y	0.00	0%
WT Peterson Oval	N	Y	49.63	120%
Concession 1	N	Y	33.10	80%
Concession 2	N	Y	8.27	20%
Concession 3	N	Y	0.00	0%
Yambla Reserve	N	Y	52.93	120%
Concession 1	N	Y	35.29	80%
Concession 2	N	Y	8.82	20%
Concession 3	N	Y	0.00	0%
Seasonal Facility Hire				
Fee Description	**Statutory Price**	**GST Applicable**	**Price Per Hour ($)**	**Percentage of Cost**
Pavilions				
Hours requested per week X weeks of hire X hourly rate = Season Fee				

Attachment 3 - Sportsgrounds and Facilities Cost Assessments

Alan Bain/Barkly Gardens Pavilion & Public Toilets	N	Y	5.99	100%
Alfred Crescent Pavilion	N	Y	19.97	100%
Alphington Park Pavilion & Kevin Crehan Grandstand	N	Y	11.56	100%
Gillon Pavilion	N	Y	14.67	100%
Burnley Park Pavilion	N	Y	11.88	100%
Coulson Reserve Pavilion	N	Y	15.73	100%
Fairfield Pavilion (Maxwell Sutherland)	N	Y	9.29	100%
Fitzroy Grandstand	N	Y	31.66	100%
Malcom Graham Pavilion	N	Y	5.75	100%
Johnson/Saunders/Loughnan Pavilion	N	Y	10.43	100%
Ramsden Pavilion	N	Y	11.63	100%
Yambla Pavilion	N	Y	10.98	100%
Ryan's Reserve Pavilion	N	Y	10.27	100%
Stanton Street	N	Y	8.51	100%
Citizens Park Air Raid/Jack Dyer Pavilion	N	Y	13.28	100%
Sherrin Stand	N	Y	50.97	100%
Mayors Park	N	Y	9.57	100%
Sports Grounds				
Hours requested per week X weeks of hire X hourly rate = Season Fee				
Alan Bain Reserve Pitch	N	Y	37.73	100%
Alfred Crescent Oval	N	Y	27.12	100%
Alphington Park Oval	N	Y	23.10	100%
Bastow 1	N	Y	41.03	100%
Bastow 2	N	Y	33.66	100%
Burnley Park Oval	N	Y	23.20	100%
Citizens Park Oval	N	Y	48.18	100%
Coulson Reserve Pitch	N	Y	26.40	100%
Fairfield Oval	N	Y	31.13	100%
Fletcher 1	N	Y	39.16	100%
Fletcher 2	N	Y	23.32	100%
Loughnan Oval	N	Y	49.38	100%
Ramsden St Oval	N	Y	20.20	100%
Ryan's Reserve	N	Y	101.97	100%
Victoria Park Oval	N	Y	36.74	100%
Walker St Oval	N	Y	34.10	100%
WT Peterson Oval	N	Y	41.36	100%
Yambla Reserve	N	Y	44.11	100%
Turf Wicket Recovery*	N	Y	2500**	100%
Sports Lighting Surcharge*	N	Y	5.76	100%
***Turf Wicket Recovery surcharge is a once off fee for applicable summer season bookings*				
**Sports Lighting Surcharge applicable winter bookings from 5.30pm onwards*				
Personal Training Licence		**GST Applicable**	**Annual Fee($)**	**Percentage of Cost**
Annual Registration Fee	N	N	316.40	N/A
Concession Rates				
Casual Usage				
Casual usage rates apply for all pre, post and out of season training				
Concession 1	*Non-Yarra based not for profit organisations and private schools*			
Concession 2	*Yarra based not for profit organisations*			
Concession 3	*Yarra based Public Schools*			
Seasonal Hire Subsidies				
Subsidy Level	***Subsidy Percentage***	***Qualification****		
Subsidy Level 1	50%	Allocation Criteria Score between 20 and 29		
Subsidy Level 2	60%	Allocation Criteria Score between 30 and 49		
Subsidy Level 3	70%	Allocation Criteria Score between 50 and 69		
Subsidy Level 4	80%	Allocation Criteria Score between 70+		
****Please refer to Yarra's Sportsgrounds and Facilities Allocation Policy to view the Allocation Criteria***				

Attachment 3 - Sportsgrounds and Facilities Cost Assessments

Pavilions - Cost to Deliver

					Options 1 and 2	Option 3
Facility (available for Hire)	Availability and usage terms	Total Cost of Delivery	Proportioned cost of delivery (50%)	2019 Booked Hours	Universal Fee Per Hour	Site Specific Fee Per Hour
Alan Bain/Rarity Gardens Pavilion & Public Toilets	Seasonal hire only (managed by Rec)	$9,181.51	$4,590.76	840.00		$5.46
Alfred Crescent Pavilion	Seasonal hire only (managed by Rec)	$27,349.00	$13,674.50	740.00		$18.47
Alphington Park Pavilion & Kevin Crehan Grandstand	Seasonal hire only (managed by Rec)	$30,314.99	$15,157.50	1,440.00		$10.52
Collier Pavilion	Seasonal hire only (managed by Rec)	$45,197.01	$24,098.51	1,645.00		$14.65
Burnley Park Pavilion	Seasonal hire only (managed by Rec)	$22,377.62	$11,188.81	1024.00		$10.92
Coulson Reserve Pavilion	Seasonal hire only (managed by Rec)	$27,861.76	$13,931.88	932.00		$14.95
Fairfield Pavilion (Maxwell Sutherland)	Seasonal hire only (managed by Rec)	$30,759.13	$15,379.57	1821.50		$8.44
Fitzroy Grandstand	Seasonal hire only (managed by Rec)	$66,614.10	$33,307.05	1267.50		$26.27
Malcolm Graham Pavilion	Seasonal hire only (managed by Rec)	$19,444.40	$9,722.20	1082.50		$9.00
Johnson/Saunders/Loughnan Pavilion	Seasonal hire only (managed by Rec)	$54,712.00	$27,356.00	1850.50		$14.80
Ramsden Pavilion	Seasonal hire only (managed by Rec)	$21,669.48	$10,834.74	1018.50		$10.64
Tomlin Pavilion	Seasonal hire only (managed by Rec)	$23,322.19	$11,661.07	1,139.00		$9.98
Ryan's Reserve Pavilion	Managed by Recreation – annual and seasonal use by netball & tennis	$19,413.89	$9,706.95	1080.00		$8.98
Stanton Street	Managed by Recreation & Property Services (different agreements for bowling club, GSA, table tennis club and martial arts) – Rec lease	$16,081.94	$8,040.97	1080.00		$7.44
Citizens Park Kit Reid/Jack Dyer Pavilion	Managed by Recreation & Property Services (different agreements for	$23,615.60	$11,807.80	936.00		$12.61
Sherrin Stand	Managed by Recreation, seasonal hire by clubs and 5 year licence with	$21,767.04	$17,883.52	286.00		$66.29
Mayors Park	Exclusive license holder (agreement with Rec) and casual use managed	$19,080.70	$9,040.35	1080.00		$8.40
TOTALS		$469,099	$234,549.5	17,067.5	$13.87	$27.52
Facilities (NOT available for hire)						
Northcote Greyhound Dog Club	Exclusive license holder (agreement with Rec)					
Panther Pavilion	Exclusive license holder (agreement with Rec)					
Fitzroy Bowling Club	Exclusive license holder who manage bookings (agreement with					
Alphington Park Bowling Club	Exclusive license holder who manage bookings (agreement with Rec)					
Fitzroy Tennis Club	Exclusive license holder who manage bookings (agreement with Rec)					
Roy Cavendish Pavilion	Exclusive license holder who manage bookings (agreement with Rec)					

Considerations and Assumptions	
Admin Cost of Delivery	Administration and cost of delivery is based on 42% of team resourced devoted to operational work which based on 3 year average is $220,000. This has then been divided equally by the total grounds and pavilions managed (44)
Cleaning Fees	Based off the line item average with the Recreation Ledger 5005 divided across the sites
Equipment and Furnishings	Chairs / tables and other Council owned equipment $6000 per site + $1k other equipment per site. Value divided by 10 years based on replacement
Proportioned cost of delivery	Pavilions are not solely provided for use by sporting clubs and therefore the total cost of delivery cannot be allocated by hirers. The cost has been estimated at 50% of use by sports clubs / hirers and 50% by the broader community / alternate use

Sportsgrounds - Cost to Deliver

				OPTION 1	OPTION 2		OPTION 3
Facility Category	Facility	Total Cost of Delivery	Booked Hours 2019	Universal Fee Per Hour	Total Booked Hours for Category	Campground Fee Per Hour	Site Specific Fee Per Hour
Community 1	Alphington Park Oval	$170,095.10	3105.5				$23.04
Community 1	Fairfield Oval		821.5				$28.82
Community 1	IVT Paterson Oval		947.5				$37.68
Community 1	Fletcher 1		600.5				$35.64
Community 1	Loughnan Oval		948.5				$45.98
Community 1	Ramsden St Oval		878.5				$16.20
Community 1	Tomlin Reserve		648.5		5798	$38.71	$25.20
Community 2	Alan Bain Reserve Pitch	$136,641	970.5				$32.95
Community 2	Alfred Crescent Oval		647.5				$24.75
Community 2	Bedrino 1		662.5				$30.04
Community 2	Burnley Park Oval		798.5				$23.83
Community 2	Citizens Park Oval		666.5				$23.09
Community 2	Coulson Reserve Pitch		662.5				$24.69
Community 2	Fletcher 2		901.5		4867.5	$27.87	$21.38
N/A	Ryan's Reserve	$9,749.70	92.5		92	$93.68	$92.70
Premiere	Bedrino 1	$99,950	732.5				$27.30
Premiere	Victoria Park Oval		1101.5		1833	$54.94	$33.80
Training Ground	Walker St Oval	$27,811	575.5		575	$38.58	$21.09
		$396,246	13871.5	$28.55			
Considerations and Assumptions							
Admin Cost of Delivery	Administration and cost of delivery is based on 42% of team resourced devoted to operational work which based on 3 year average is $220,000. This has then been divided equally by the total grounds and pavilions managed (44)						
Applicable Utility / Water Costs	Based on advice from the Recreation team, 35% of all sportsground usage can be attributed to seasonal hire use. The 50% allocation of costs to these fees is attributed to 35% of the cost of delivery plus an additional 15% due to the LRRS open delivering high quality sporting facilities						

Sports Lighting - Surcharge

Facility	Availability and usage terms	Sport Lighting Costs
Alan Bain Reserve Pitch	Seasonal + community hire	$924.16
Alfred Crescent Oval	Seasonal + community hire	
Alphington Park Oval	Seasonal + community hire	$2,464.80
Bedrino 1	Seasonal hire ONLY (minor exceptions)	$6,420
Bedrino 2	Seasonal + community hire	$840
Burnley Park Oval	Seasonal + community hire	$480
Citizens Park Oval	Seasonal hire ONLY (no exceptions)	$769.00
Coulson Reserve Pitch	Seasonal + community hire	$840.96
Fairfield Oval	Seasonal + community hire	$4,991.20
Fletcher 1	Seasonal hire ONLY (limited exceptions)	$4,305
Fletcher 2	Seasonal + community hire	$1,440
Loughnan Oval	Seasonal + community hire	$810.74
Ramsden St Oval	Seasonal + community hire	$924.78
Ryan's Reserve	Seasonal + community hire	
Victoria Park Oval	Seasonal hire ONLY (strictly limited exceptions including events)	$921.90
Walker St Oval	Seasonal + community hire	$1,123.20
IVT Paterson Oval	Seasonal hire ONLY (minor exceptions)	$2,670.40
Tomlin Reserve	Seasonal + community hire	5798
TOTALS		$46,895
2019 Winter Season sportlight charges HOURS		4760
Sportslighting Subsidy (charged per hour)		$9.84

Attachment 4 - Yarra Sports Clubs Impact Study 2020

Proposed Fees and Charges - Impact Analysis 2020 Winter Seasonal Allocations - Sportsgrounds

				Option 1 - Universal Fee			Option 2 - Categorised Fee			Option 3 - Site Specific Fee		
Club Name	Facility	Facility Category	2020 Master Allocations	Universal Fee	Season Length	Totals	Categorised Fee	Season Length	Total	Site Specific Fee	Season Length	Total
Alphington Football Club	Alphington Park Oval	Community 1	24	$33.61	20	$16,132.80	$33.71	20	$16,180.80	$23.10	20	$11,088.00
TOTAL			24			$16,132.80			$16,180.80			$11,088.00
Collingwood City Soccer Club	Burnley Street Oval	Community 2	13.5	$33.61	20	$9,074.70	$33.66	20	$8,276.20	$23.20	20	$6,264.00
	Bastow 1	Premiere	3	$33.61	20	$2,016.60	$38.44	20	$2,306.40	$41.08	20	$2,462.80
	Bastow 2	Community 2	7.5	$33.61	20	$5,041.50	$30.66	20	$4,599.00	$33.66	20	$5,049.00
	Fletcher 1	Community 1	24	$33.61	20	$16,132.80	$33.71	20	$16,180.80	$39.10	20	$18,796.80
	Fletcher 2	Community 2	21	$33.61	20	$14,768.40	$30.66	20	$13,490.40	$23.32	20	$10,240.80
TOTAL			70			$47,054.00			$44,854.80			$42,832.80
Clifton Hill Football Club	Walker Street	Training Ground	6	$33.61	20	$4,033.20	$23.86	20	$2,865.20	$34.10	20	$4,092.00
	Yarrida	Community 1	18	$33.61	20	$12,099.60	$33.71	20	$12,135.60	$44.11	20	$15,879.60
	Coulson	Community 2	20	$33.61	20	$13,444.00	$30.66	20	$12,264.00	$26.40	20	$10,560.00
TOTAL			44			$29,576.80			$27,262.80			$30,532
Fitzroy City Soccer Club	Bastow 1	Premiere	7	$33.61	20	$4,705.40	$38.44	20	$5,381.60	$41.08	20	$5,744.20
	Bastow 2	Community 2	5	$33.61	20	$3,361.00	$30.66	20	$3,066.00	$33.66	20	$3,366.00
	Fairfield	Community 1	16	$33.61	20	$10,755.20	$33.71	20	$10,787.20	$31.13	20	$9,961.60
TOTAL			28			$18,821.60			$19,234.80			$20,531.60
Fitzroy Lions Soccer Club	Alan Bain	Community 2	11	$33.61	20	$7,394.20	$30.66	20	$6,745.20	$37.73	20	$8,300.60
TOTAL			11			$7,394.20			$6,745.20			$8,300.60
Melbourne Rovers Soccer Club	Bastow 1	Premiere	1.5	$33.61	20	$1,008.30	$38.44	20	$1,153.20	$41.08	20	$1,230.90
	Bastow 2	Community 2	6.5	$33.61	20	$4,369.30	$30.66	20	$3,985.80	$33.66	20	$4,375.80
TOTAL			8			$5,377.60			$5,139.00			$5,606.70
Mt Bunker	Alan Bain	Community 2	5.5	$33.61	20	$3,697.10	$30.66	20	$3,372.60	$37.73	20	$4,150.30
TOTAL			5.5			$3,697.10			$3,372.60			$4,150.30
Yarra Jets Football Club	Walker Street	Training Ground	9.5	$33.61	20	$6,385.90	$23.86	20	$4,533.40	$34.10	20	$6,479.00
	Yarrida	Community 1	11	$33.61	20	$7,394.20	$33.71	20	$7,416.20	$44.11	20	$9,704.20
TOTAL			20.5			$13,780.10			$11,949.60			$16,183.20
Fitzroy Football Club	Victoria Park	Premiere	1	$33.61	20	$1,344.40	$38.44	20	$1,537.60	$36.74	20	$1,469.60
	WT Peterson Oval	Community 1	11	$33.61	20	$7,394.20	$33.71	20	$7,416.20	$41.36	20	$9,099.20
	Ramsden Street Oval	Community 1	12.5	$33.61	20	$8,402.50	$33.71	20	$8,427.50	$20.20	20	$5,050.00
TOTAL			25.5			$17,141.10			$17,381.30			$15,618.80
Fitzroy Junior Football Club	Victoria Park	Premiere	11.5	$33.61	20	$7,730.50	$38.44	20	$8,841.20	$36.74	20	$8,450.20
	WT Peterson Oval	Community 1	14.5	$33.61	20	$9,746.90	$33.71	20	$9,775.90	$41.36	20	$11,994.40
	Alfred Crescent	Community 2	16.5	$33.61	20	$11,091.30	$30.66	20	$10,117.80	$27.12	20	$8,948.80
	Ramsden Street Oval	Community 1	16.5	$33.61	20	$11,091.30	$33.71	20	$11,124.30	$20.20	20	$6,666.00
TOTAL			59			$39,659.80			$39,859.20			$36,060.20
Richmond Central AFC	Loughnan Oval	Community 1	19.5	$33.61	20	$13,107.90	$33.71	20	$13,146.90	$49.50	20	$19,227.00
TOTALS						$13,107.90			$13,146.90			$19,227.00
Richmond Junior Football Club	Loughnan Oval	Community 1	11.5	$33.61	20	$7,730.50	$33.71	20	$7,753.30	$49.50	20	$11,339.00
	Citizens	Community 2	10	$33.61	20	$13,444.00	$30.66	20	$12,264.00	$48.18	20	$19,272.00
TOTAL			21.5			$21,174.50			$20,017			$30,611
TOTALS						$212,917.30			$225,144.30			$250,741.40

Proposed Fees and Charges - Impact Analysis 2020 Summer Seasonal Allocations -

Club Name	Facility	Facility Category	2019 Allocation	Universal Fee	Season Length	Totals	Categorised Fee	Season Length	Total	Site Specific Fee	Season Length	Total
Clifton Hill Cricket Club	Walker Street	Training Ground	13.5	$33.61	20	$9,074.70	$23.86	20	$8,442.20	$34.10	20	$9,207.00
	Ramsden Street Oval	Community 1	30.5	$33.61	20	$22,518.70	$33.71	20	$22,585.70	$20.20	20	$13,534.00
TOTAL						$31,593.40			$29,027.90			$22,741.00
Burnley Cricket	Fletcher 2	Community 2	14.5	$33.61	20	$9,746.90	$30.66	20	$8,891.40	$23.32	20	$6,762.80
	Loughnan Oval	Community 1	9.5	$33.61	20	$6,385.90	$33.71	20	$6,404.90	$49.30	20	$9,367.00
TOTAL						$16,132.80			$15,296.30			$16,129.80
Richmond Union Cricket Club	Burnley Street Oval	Community 2	27	$33.61	20	$18,149.40	$30.66	20	$16,556.40	$23.20	20	$12,528.00
	Fletcher 2	Community 2	17	$33.61	20	$11,427.40	$30.66	20	$10,424.40	$23.32	20	$7,928.80
	Alan Bain	Community 2	13.5	$33.61	20	$9,074.70	$30.66	20	$8,276.20	$37.73	20	$10,187.10
	Loughnan Oval	Community 1	7.5	$33.61	20	$5,041.50	$33.71	20	$5,056.50	$49.30	20	$7,395.00
	Citizens	Community 2	19	$33.61	20	$12,771.80	$30.66	20	$11,650.80	$48.18	20	$18,308.40
TOTAL						$56,464.80			$51,966.30			$56,347.30
Edinburgh Cricket Club	Fairfield	Community 1	7.5	$33.61	20	$5,041.50	$33.71	20	$5,056.50	$31.13	20	$4,668.50
	Alphington Park Oval	Community 1	1.5	$33.61	20	$1,008.30	$33.71	20	$1,011.30	$23.10	20	$693.00
	WT Peterson Oval	Community 1	37	$33.61	20	$24,871.40	$33.71	20	$24,945.40	$41.36	20	$30,608.40
	Alfred Crescent	Community 2	37	$33.61	20	$24,871.40	$30.66	20	$22,688.40	$27.12	20	$20,068.80
TOTAL						$55,792.60			$53,701.60			$56,037.70
Fairfield Cricket Club	Fairfield	Community 1	27	$33.61	20	$18,149.40	$33.71	20	$18,203.40	$31.13	20	$16,810.20
TOTAL						$159,983.60			$168,195.50			$168,066.00

Proposed Fees and Charges - Impact Analysis 2020 Winter Seasonal Allocations - Pavilions

				Option 1 & 2 - Universal Fee			Option 3 - Site Specific Fee		
Club Name	Facility	Facility Category	2020 Master Allocations	Universal Fee	Season Length	Totals	Site Specific Fee	Season Length	Total
Alphington Football Club	Alphington Pavilion	Pavilion	24	$18.41	20	$8,839.90	$11.56	20	$5,548.80
TOTAL						$8,836.80			$5,548.80
Collingwood City Soccer Club	Malcolm Graham	Pavilion	58	$18.41	20	$21,355.60	$5.75	20	$6,670.00
	Burnley Park	Pavilion	52	$18.41	20	$11,782.40	$11.88	20	$7,603.20
	Gillon	Pavilion	2	$18.41	20	$736.40	$14.97	20	$586.80
TOTAL						$33,874.40			$14,860.00
Clifton Hill Football Club	Yarrida	Pavilion	28	$18.41	20	$9,579.20	$10.98	20	$5,709.60
	Coulson	Pavilion	54	$18.41	20	$12,518.80	$15.75	20	$10,096.40
TOTAL						$22,092.00			$16,806
Fitzroy City Soccer Club	Fairfield	Pavilion	37	$18.41	20	$13,623.40	$9.29	20	$6,874.60
TOTAL						$13,623.40			$6,874.60
Fitzroy Lions Soccer Club	Barkley Gardens	Pavilion	26	$18.41	20	$9,573.20	$5.99	20	$3,114.80
TOTAL						$9,573.20			$3,114.80
Melbourne Rovers Soccer Club	Barkley Gardens	Pavilion	12	$18.41	20	$4,418.40	$5.99	20	$1,437.60
TOTAL						$4,418.40			$1,437.60
Mt Bunker	Barkley Gardens	Pavilion	2.5	$18.41	20	$920.50	$5.99	20	$299.50
	Burnley Park	Pavilion	5	$18.41	20	$1,841.00	$11.88	20	$1,188.00
TOTAL						$2,761.50			$1,487.50
Yarra Jets Football Club	Fairfield	Pavilion	29	$18.41	20	$10,677.80	$9.29	20	$5,388.20
	Yarrida	Pavilion	26	$18.41	20	$9,573.20	$10.98	20	$5,709.60
	Ray Coverdale	Pavilion	35	$18.41	20	$12,887.00	$10.27	20	$7,189.00
TOTAL						$33,138.00			$18,286.80
Fitzroy Football Club	Edinburgh Grandstand	Premiere	22	$18.41	20	$8,100.40	$9.29	20	$4,087.60

Attachment 4 - Yarra Sports Clubs Impact Study 2020

	Ramsden Street	Pavilion	17	$18.41	20	$6,259.40	$11.49	20	$3,956.20
TOTAL						$14,159.80			$8,041.80
Fitzroy Junior Football Club	Victoria Park	Sherrin Stand	11.5	$18.41	20	$4,234.30	$10.97	20	$3,723.10
	WT Peterson	Pavilion	14.5	$18.41	20	$5,338.90	$11.88	20	$3,445.20
	Alfred Crescent	Pavilion	16.5	$18.41	20	$6,075.30	$19.97	20	$6,940.10
	Ramsden Street Oval	Pavilion	16.5	$18.41	20	$6,075.30	$11.43	20	$3,837.90
TOTAL						$21,723.80			$25,946.30
Richmond Central AFC	Johnstone	Pavilion	11	$18.41	20	$4,050.20	$10.43	20	$2,294.60
TOTALS						$4,050.20			$2,294.60
Richmond Junior Football Club	Jack Dyer	Pavilion	24.5	$18.41	20	$9,020.90	$13.26	20	$6,507.20
	Johnstone	Pavilion	20	$18.41	20	$7,364.00	$10.43	20	$4,172.00
TOTAL						$16,384.90			$10,679
TOTALS						$184,836.40			$114,678.00

Proposed Fees and Charges - Impact Analysis
2020 Summer Seasonal Allocations - Pavilions

Club Name	Facility	Facility Category	2019 Allocation	Universal Fee	Season Length	Totals	Site Specific Fee	Season Length	Total
Clifton Hill Cricket Club	Ramsden Street Pavilion	Pavilion	60	$18.41	20	$22,092.00	$11.65	20	$13,956.00
TOTAL						$23,092.00			$13,956.00
Burnley CYMS	Johnson Pavilion	Pavilion	45	$18.41	20	$16,569.00	$10.43	20	$9,387.00
TOTAL						$16,569.00			$9,387.00
Richmond Union Cricket Club	Kevin Bartlett	Pavilion	44	$18.41	20	$16,937.20	$11.56	20	$10,635.20
	Barkley Gardens	Pavilion	43	$18.41	20	$15,302.60	$5.99	20	$5,151.40
	Burnley Park	Pavilion	45	$18.41	20	$16,569.00	$11.88	20	$10,692.00
	Jack Dyer	Pavilion	44	$18.41	20	$16,200.80	$13.26	20	$11,686.40
TOTAL						$65,539.60			$38,165.00
Edinburgh Cricket Club	Maxwell Sutherland	Pavilion	5	$18.41	20	$1,841.00	$8.29	20	$829.00
	Fitzroy Grandstand	Pavilion	64	$18.41	20	$23,564.80	$31.66	20	$40,524.80
	Alfred Crescent	Pavilion	43	$18.41	20	$15,464.40	$11.56	20	$8,710.40
TOTAL						$40,870.20			$50,164.20
Fairfield Cricket Club	Maxwell Sutherland	Pavilion	41	$18.41	20	$15,096.20	$8.29	20	$7,617.80
TOTAL						$160,167.00			$120,290.00

Attachment 4 - Yarra Sports Clubs Impact Study 2020

Option 2 - Categorised Fee - 3 Year Implementation - 2020 Seasonal Allocations

Club Name	Facility	Facility Category	2020 Master Allocations Sheet Hours	Year 1 - 50% of Fee Charged: Categorised Fee	Season Length	Total	Year 2 - 75% of fee Charged: Categorised Fee	Season Length	Total	Year 3 - 100% of Fee Charged: Categorised Fee	Season Length	Total	2019 Fees Paid
Alphington Football Club	Alphington Park Oval	Community 1	39	$16.86	20	$8,090.40	$25.28	20	$12,135.60	$33.71	20	$16,180.80	
TOTAL			39			$8,090.40			$12,135.60			$16,180.80	$1,795
Collingwood City Soccer Club	Burnley Street Oval	Community 2	13.5	$15.33	20	$4,139.10	$23.00	20	$6,209.65	$30.66	20	$8,275.20	
	Bestow 1	Premiere	5	$19.22	20	$1,153.20	$28.83	20	$1,729.80	$38.44	20	$2,306.40	
	Bestow 2	Community 2	7.5	$15.33	20	$2,299.50	$23.00	20	$3,449.25	$30.66	20	$4,599.00	
	Fletcher 1	Community 1	24	$16.86	20	$8,090.40	$25.28	20	$12,135.60	$33.71	20	$16,180.80	
	Fletcher 2	Community 2	22	$15.33	20	$6,745.20	$23.00	20	$10,117.80	$30.66	20	$13,490.40	
TOTAL			70			$22,427.40			$33,641.10			$44,854.80	$4,965.20
Clifton Hill Football Club	Walker Street Ground	Training Ground	6	$11.99	20	$1,481.60	$17.90	20	$2,147.40	$23.86	20	$2,863.20	
	Yambla	Community 1	18	$16.86	20	$6,067.80	$25.28	20	$9,101.70	$33.71	20	$12,135.60	
	Coulson	Community 2	20	$15.33	20	$6,132.00	$23.00	20	$9,198.00	$30.66	20	$12,264.00	
TOTAL			44			$13,681.40			$20,447.10			$27,263	$1,230.80
Fitzroy City Soccer Club	Bestow 1	Premiere	7	$19.22	20	$2,690.80	$28.83	20	$4,036.20	$38.44	20	$5,381.60	
	Bestow 2	Community 2	5	$15.33	20	$1,533.00	$23.00	20	$2,299.50	$30.66	20	$3,066.00	
	Fairfield	Community 1	16	$16.86	20	$5,393.60	$25.28	20	$8,090.40	$33.71	26	$14,023.36	
TOTAL			28			$9,617.40			$14,426.10			$22,470.96	$1,947.20
Fitzroy Lions Soccer Club	Alan Bain	Community 2	13	$15.33	20	$3,372.60	$23.00	20	$5,058.90	$30.66	20	$6,745.20	
TOTAL			13			$3,372.60			$5,058.90			$6,745.20	$408.60
Melbourne Rovers Soccer Club	Bestow 1	Premiere	1.5	$19.22	20	$576.60	$28.83	20	$864.90	$38.44	20	$1,153.20	
	Bestow 2	Community 2	6.5	$15.33	20	$1,992.90	$23.00	20	$2,989.35	$30.66	20	$3,985.80	
TOTAL			8			$2,569.50			$3,854.25			$5,139.00	$1,896.80
NK Bunker	Alan Bain	Community 2	5.5	$15.33	20	$1,686.30	$23.00	20	$2,529.45	$30.66	20	$3,372.60	
TOTAL			5.5			$1,686.30			$2,529.45			$3,372.60	$703.04
Yarra Jets Football Club	Walker Street Ground	Training Ground	9.5	$11.99	20	$2,266.70	$17.90	20	$3,400.05	$23.86	20	$4,535.40	
	Yambla	Community 1	13	$16.86	20	$3,708.10	$25.28	20	$5,562.15	$33.71	20	$7,416.20	
TOTAL			23.5			$5,974.80			$8,962.20			$11,949.60	$2,706.80
Fitzroy Football Club	Victoria Park	Premiere	2	$19.22	20	$768.80	$28.83	20	$1,153.20	$38.44	20	$1,537.60	
	WT Peterson Oval	Community 1	13	$16.86	20	$3,708.10	$25.28	20	$5,562.15	$33.71	20	$7,416.20	
	Ramsden Street Oval	Community 1	12.5	$16.86	20	$4,213.75	$25.28	20	$6,320.63	$33.71	20	$8,427.50	
TOTAL			27.5			$8,690.65			$13,035.98			$17,381.30	$6,876.48
Fitzroy Junior Football Club	Victoria Park	Premiere	11.5	$19.22	20	$4,420.60	$28.83	20	$6,630.90	$38.44	20	$8,841.20	
	WT Peterson Oval	Community 1	14.5	$16.86	20	$4,887.85	$25.28	20	$7,331.93	$33.71	20	$9,775.90	
	Alfred Crescent Ramsden	Community 2	16.5	$15.33	20	$5,058.90	$23.00	20	$7,588.35	$30.66	20	$10,117.80	
	Street Oval	Community 1	16.5	$16.86	20	$5,562.15	$25.28	20	$8,343.23	$33.71	20	$11,124.30	
TOTAL			59			$19,929.60			$29,894.40			$39,859.20	$2,534.96
Richmond Central AFC	Loughren Oval	Community 1	19.5	$16.86	20	$6,573.45	$25.28	20	$9,860.18	$33.71	20	$13,146.90	
TOTALS						$6,573.45			$9,860.18			$13,146.90	$4,196.95
Richmond Junior Football Club	Loughren Oval	Community 1	11.5	$16.86	20	$3,877.80	$25.28	20	$5,814.98	$33.71	20	$7,753.30	
	Citizens	Community 2	20	$15.33	20	$6,132.00	$23.00	20	$9,198.00	$30.66	20	$12,264.00	
TOTAL			31.5			$10,010			$15,013			$20,017	$1,377
TOTALS						$112,573.50			$168,858.23			$225,160.46	$26,048.20

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Analysis 2020 Winter Seasonal Allocations - Pavilions

Club Name	Facility	Facility Category	2020 Master Allocations Sheet Hours	Year 1 - 50% of Fee Charged: Universal Fee	Season Length	Totals	Year 2 - 75% of fee Charged: Categorised Fee	Season Length	Total	Year 3 - 100% of Fee Charged: Site Specific Fee	Season Length	Total	2019 Fees Paid
Alphington Football Club	Alphington Pavilion	Pavilion	34	$9.21	20	$4,420.80	$13.81	20	$6,627.60	$18.41	20	$8,836.80	
TOTAL						$4,420.80			$6,627.60			$8,836.80	$0
Collingwood City Soccer Club	Malcolm Graham	Pavilion	58	$9.21	20	$10,683.60	$13.81	20	$16,016.70	$18.41	20	$21,350.40	
	Burnley Park	Pavilion	32	$9.21	20	$5,894.40	$13.81	20	$8,836.80	$18.41	20	$11,782.40	
	Gillon	Pavilion	2	$9.21	20	$368.40	$13.81	20	$552.30	$18.41	20	$736.40	
TOTAL						$16,946.40			$25,405.80			$33,879.20	$0
Clifton Hill Football Club	Yambla	Pavilion	26	$9.21	20	$4,789.20	$13.81	20	$7,179.90	$18.41	20	$9,573.20	
	Coulson	Pavilion	34	$9.21	20	$6,262.80	$13.81	20	$9,389.10	$18.41	20	$12,518.80	
TOTAL						$11,052.00			$16,569.00			$22,092	$0
Fitzroy City Soccer Club	Fairfield	Pavilion	37	$9.21	20	$6,815.40	$13.81	20	$10,217.55	$18.41	20	$13,623.40	
TOTAL						$6,815.40			$10,217.55			$13,623.40	$0
Fitzroy Lions Soccer Club	Barkley Gardens	Pavilion	28	$9.21	20	$4,789.20	$13.81	20	$7,179.90	$18.41	20	$9,573.20	
TOTAL						$4,789.20			$7,179.90			$9,573.20	$0
Melbourne Rovers Soccer Club	Barkley Gardens	Pavilion	12	$9.21	20	$2,210.40	$13.81	20	$3,313.80	$18.41	20	$4,418.40	
TOTAL						$2,210.40			$3,313.80			$4,418.40	$0
NK Bunker	Barkley Gardens	Pavilion	2.5	$9.21	20	$460.50	$13.81	20	$690.38	$18.41	20	$920.50	
	Burnley Park	Pavilion	5	$9.21	20	$921.00	$13.81	20	$1,380.75	$18.41	20	$1,841.00	
TOTAL						$1,381.50			$2,071.13			$2,761.50	$0
Yarra Jets Football Club	Fairfield	Pavilion	29	$9.21	20	$5,341.80	$13.81	20	$8,008.35	$18.41	20	$10,677.40	
	Yambla	Pavilion	26	$9.21	20	$4,789.20	$13.81	20	$7,179.90	$18.41	20	$9,573.20	
	Ray Coverdale	Pavilion	35	$9.21	20	$6,447.00	$13.81	20	$9,665.25	$18.41	20	$12,887.00	
TOTAL						$16,578.00			$24,853.50			$33,138.00	$0
Fitzroy Football Club	Edinburgh Grandstand	Premiere	22	$9.21	20	$4,052.40	$13.81	20	$6,075.30	$18.41	20	$8,100.40	
	Ramsden Street	Pavilion	17	$9.21	20	$3,131.40	$13.81	20	$4,694.55	$18.41	20	$6,259.40	

Attachment 4 - Yarra Sports Clubs Impact Study 2020

TOTAL							$7,183.80				$10,799.85			$14,359.80	$0
Fitzroy Junior Football Club	Victoria Park	Sherrin Stand	11.5	$9.21	20	$2,118.30	$13.81	20	$3,175.78	$18.41	20	$4,236.30		
	WT Peterson Oval	Pavilion	14.5	$9.21	20	$2,670.90	$13.81	20	$4,004.18	$18.41	20	$5,338.90		
	Alfred Crescent	Pavilion	16.5	$9.21	20	$3,039.30	$13.81	20	$4,556.48	$18.41	20	$6,075.30		
	Ramsden Street Oval	Pavilion	16.5	$9.21	20	$3,039.30	$13.81	20	$4,556.48	$18.41	20	$6,075.30		
TOTAL						$10,867.80			$16,292.85			$21,729.80		$0
Richmond Central AFC	Johnstone	Pavilion	11	$9.21	20	$2,026.20	$13.81	20	$3,037.65	$18.41	20	$4,050.20		
TOTALS						$2,026.20			$3,037.65			$4,050.20		$0
Richmond Junior Football Club	Jack Dyer	Pavilion	24.5	$9.21	20	$4,512.90	$13.81	20	$6,765.68	$18.41	20	$9,020.90		
	Johnstone	Pavilion	20	$9.21	20	$3,684.00	$13.81	20	$5,523.00	$18.41	20	$7,364.00		
TOTAL						$8,196.90			$12,288			$16,385		$0
TOTALS						$92,468.80			$138,627.30			$184,836.80		$0

Proposed Fees and Charges - Impact Analysis 2020 Summer Seasonal Allocations - Sportsgrounds

Club Name	Facility	Facility Category	2019 Allocation Hours	Universal Fee	Season Length	Totals	Categorised Fee	Season Length	Total	Site Specific Fee	Season Length	Total	2019 Fees Paid
Clifton Hill Cricket Club	Walker Street	Training Ground	15.5	$11.93	20	$3,221.10	$17.90	20	$4,891.65	$23.86	20	$6,442.20	
	Ramsden Street Oval	Community 1	33.5	$16.86	20	$11,292.85	$25.28	20	$16,999.28	$33.71	20	$22,589.70	
TOTAL						$14,513.95			$21,770.93			$29,027.90	$0
Burnley CYMS	Fletcher 2	Community 2	14.5	$15.33	20	$4,445.70	$23.00	20	$6,668.55	$30.66	20	$8,891.40	
	Loughnan Oval	Community 1	8.5	$16.88	20	$2,202.45	$25.28	20	$4,803.68	$33.71	20	$6,404.90	
TOTAL						$7,648.15			$11,472.23			$15,296.30	$8,854.12
Richmond Union Cricket Club	Burnley Street Oval	Community 2	27	$15.33	20	$8,278.20	$23.00	20	$12,417.30	$30.66	20	$16,556.40	
	Fletcher 2	Community 2	17	$15.33	20	$5,212.20	$23.00	20	$7,818.50	$30.66	20	$10,424.40	
	Alan Bain	Community 2	13.5	$15.33	20	$4,139.10	$23.00	20	$6,208.65	$30.66	20	$8,278.20	
	Loughnan Oval	Community 1	7.5	$16.86	20	$2,528.25	$25.28	20	$3,792.38	$33.71	20	$5,056.50	
	Citizens	Community 2	18	$15.33	20	$5,825.40	$23.00	20	$8,758.10	$30.66	20	$11,650.80	
TOTAL						$25,983.15			$38,974.73			$51,966.30	$0
Edinburgh Cricket Club	Fairfield Alphington	Community 1	7.5	$16.86	20	$2,528.25	$25.28	20	$3,792.38	$33.71	20	$5,056.50	
	Park Oval	Community 1	1.5	$16.86	20	$505.65	$25.28	20	$758.48	$33.71	20	$1,011.30	
	WT Peterson Oval	Community 1	37	$16.86	20	$12,472.70	$25.28	20	$18,709.05	$33.71	20	$24,945.40	
	Alfred Crescent	Community 2	37	$15.33	20	$11,344.20	$23.00	20	$17,016.50	$30.66	20	$22,688.40	
TOTAL						$26,850.80			$40,276.20			$53,701.60	$0
Fairfield Cricket Club	Fairfield	Community 1	27	$16.86	20	$9,101.70	$25.28	20	$13,652.55	$33.71	20	$18,203.40	
TOTAL						$84,097.75			$126,146.63			$168,195.50	$8,854.12

Proposed Fees and Charges - Impact Analysis 2020 Summer Seasonal Allocations - Pavilions

Club Name	Facility	Facility Category	2019 Allocation Hours	Universal Fee	Season Length	Totals		Season Length	Total	Universal Fee	Season Length	Total	2019 Fees Paid
Clifton Hill Cricket Club	Ramsden Street Pavilion	Pavilion	60	$9.21	20	$11,052.00	$13.81	20	$16,569.00	$18.41	20	$22,092.00	
TOTAL						$11,052.00			$16,569.00			$22,092.00	
Burnley CYMS	Johnson Pavilion	Pavilion	45	$9.21	20	$8,289.00	$13.81	20	$12,426.75	$18.41	20	$16,569.00	
TOTAL						$8,289.00			$12,426.75			$16,569.00	$0
Richmond Union Cricket Club	Kevin Bartlett	Pavilion	46	$9.21	20	$8,473.20	$13.81	20	$12,702.90	$18.41	20	$16,937.20	
	Barkley Gardens	Pavilion	43	$9.21	20	$7,920.60	$13.81	20	$11,874.45	$18.41	20	$15,852.60	
	Burnley Park	Pavilion	45	$9.21	20	$8,289.00	$13.81	20	$12,426.75	$18.41	20	$16,569.00	
	Jack Dyer	Pavilion	44	$9.21	20	$8,104.80	$13.81	20	$12,150.60	$18.41	20	$16,200.80	
TOTAL						$32,787.60			$49,154.70			$65,539.60	$0
Edinburgh Cricket Club	Maxwell Sutherland	Pavilion	5	$9.21	20	$921.00	$13.81	20	$1,380.75	$18.41	20	$1,841.00	
	Fitzroy Grandstand	Pavilion	64	$9.21	20	$11,788.80	$13.81	20	$17,673.60	$18.41	20	$23,564.80	
	Alfred Crescent	Pavilion	42	$9.21	20	$7,736.40	$13.81	20	$11,598.30	$18.41	20	$15,464.40	
TOTAL						$20,446.20			$30,652.65			$40,870.20	$0
Fairfield Cricket Club	Maxwell Sutherland	Pavilion	41	$9.21	20	$7,553.20	$13.81	20	$11,322.15	$18.41	20	$15,098.20	
TOTAL						$80,127.00			$120,125.25			$160,167.00	$0

Cost Recovery	Year 1 Cost Recovery Minimum*	Year 2 Cost Recovery Minimum*	Year 3 Cost Recovery Minimum*	2019 Cost Recovery
Winter Sportsgrounds	$22,514.88	$33,771.65	$45,676.08	$8,048.20
Winter Pavilions	$18,483.68	$27,725.46	$36,967.28	$0.00
Summer Sportsground	$16,619.55	$25,229.33	$33,639.10	$8,854.12
Summer Pavilions	$16,025.40	$24,025.05	$32,033.40	$0.00
TOTALS	$57,827.88	$110,751.48	$148,315.87	$16,902.32

*Does not include Turf Wicket and Sports Lighting Surcharges

Year 1 - Individual Club Impacts

Club Name	Facility	2020 Master Allocations Sheet Hours	2019 Fee Paid	Year 1 Fee* (based on full subsidy)	Facility Hire Variance	Spotlighting Fees*	Turf Wicket Surcharge	Total Fee Payable

Attachment 4 - Yarra Sports Clubs Impact Study 2020

Alphington Football Club	Sports:					10 Hours per week x $5.76 X 20 Weeks		
	Grounds	24		$1,618.08				
	Pavilions	24		$884.16				
TOTAL		48	$0.00	$2,502.24	$2,502.24	$1,152.00		$3,654.24
Collingwood City Soccer Club	Sports:					20 Hours per week x $5.76 X 20 Weeks		
	Grounds	70		$4,485.48				
	Pavilions	92		$3,389.28				
TOTAL		162	$0.00	$7,874.76	$7,874.76	$3,840.00		$11,255.56
Clifton Hill Football Club	Sports:					20 Hours per week x $5.76 X 20 Weeks		
	Grounds	44		$2,726.28				
	Pavilions	60		$2,220.40				
TOTAL		104	$0.00	$4,996.68	$4,936.68	$2,649.60		$7,586.28
Fitzroy City Soccer Club	Sports:					14 Hours per week x $5.76 X 20 Weeks		
	Grounds	28		$1,925.48				
	Pavilions	37		$1,360.08				
TOTAL		65	$0.00	$3,286.56	$1,286.56	$1,612.80		$4,899.36
Fitzroy Lions Soccer Club	Sports:					5 Hours per week x $5.76 X 20 Weeks		
	Grounds	11		$674.52				
	Pavilions	26		$857.84				
TOTAL		37	$408.68	$1,532.36	$1,223.68	$576.00		$2,208.36
Melbourne Rovers Soccer Club	Sports					5 Hours per week x $5.76 X 20 Weeks		
	Grounds	8		$513.80				
	Pavilions	12		$442.08				
TOTAL		20	$1,898.89	$955.88	$842.91	$345.60		$1,301.56
	Sports					1.5 Hours per week x $5.76 X 20 Weeks		
NK Bunker	Grounds	5.5		$337.26				
	Pavilions	7.5		$276.30				
TOTAL		13	$763.04	$613.56	$149.48	$172.80		$786.36
Yarra Jets Football Club	Sports:					32.5 Hours per week x $5.76 X 20		
	Grounds	20.5		$1,194.96				
	Pavilions	90		$3,315.60				
TOTAL		110.5	$0.00	$4,510.56	$4,510.56	$3,744.00		$8,254.56
	Sports					9.5 Hours per week x $5.76 X 20 Weeks		
Fitzroy Football Club	Grounds	25.5		$1,738.13				
	Pavilions	39		$1,436.76				
TOTAL		64.5	$6,876.68	$3,174.89	$3,701.58	$1,094.40		$4,269.29
Fitzroy Junior Football Club	Sports:					6 Hours per week x $5.76 X 20 Weeks		
	Grounds	58		$3,085.92				
	Pavilions	56		$2,173.56				
TOTAL		118	$0.00	$6,259.48	$6,159.48	$691.20		$6,850.68
Richmond Central AFC	Sports:					10 Hours per week x $5.76 X 20 Weeks		
	Grounds	19.5		$1,314.69				
	Pavilions	11		$405.24				
TOTAL3		30.5	$3,330.95	$1,719.93	$1,415.02	$1,152.00		$2,871.93
Richmond Junior Football Club	Sports					7.5 Hours per week x $5.76 X 20 Weeks		
	Grounds	33.5		$2,002.00				
	Pavilions	44.5		$1,639.38				
TOTAL		78	$0.00	$3,641.38	$3,641.38	$864.00		$4,505.38
Clifton Hill Cricket Club	Sports:							
	Grounds	47		$2,902.79				
	Pavilions	60		$2,210.40				
TOTAL		107	$0	$5,113.19	$5,113.19			$5,113.19
	Sports:					Turf Wicket Surcharge		
Burnley CYMS	Grounds	24		$1,529.70				
	Pavilions	45		$1,657.80				
TOTAL		69	$4,854.12	$3,187.50	$3,686.62		$2,500	$5,687
Richmond Union Cricket Club	Sports:					Turf Wicket Surcharge		
	Grounds	84		$5,196.60				
	Pavilions	178		$6,557.52				
TOTAL		262	$0	$11,754.15	$11,754.15		$2,500	$14,254.15
Edinburgh Cricket Club	Sports:					Turf Wicket Surcharge		
	Grounds	83		$5,370.16				
	Pavilions	111		$4,089.24				
TOTAL		194	$0	$9,459.40	$9,459.40		$2,500	$11,959.40
	Sports:							
Fairfield Cricket Club	Grounds	27		$1,820.34				
	Pavilions	41		$1,510.44				
TOTAL		68	$0.00	$3,330.78	$3,330.78			$3,330.78

*Based upon full subsidy achievement

*based on 30% of Categorised Fee Structure applied

*Sportlighting fees based upon all Winter Seasonal Bookings after 5.30pm

8.4 Consultation findings and next steps regarding the Consumption of Liquor in Public Places Local Law

Executive Summary

Purpose

To present findings from the consultation and research undertaken in response to Resolution Item 6372 on 8 October 2019. This report also provides information on subsequent work required in response to the sunsetting of the *Consumption of Liquor in Public Places Local Law* on 19 October 2021.

To seek support for the specified parameters for a broad stakeholder engagement in line with the timelines and corresponding milestones for the 2021 calendar year, and to note that direction will be sought from Council at the meeting on 1 June for a decision to commence formal consultation on the future of any local law or an alternative response in relation to public consumption of liquor in public places.

Key Issues

The consumption of liquor in public places and the associated issues are complex. It is important to note that the Aboriginal and Torres Strait Islander community in Yarra has consistently voiced concerns that the local law affords opportunities for prejudice, stereotypes and profiling.

There is a clear need for Council to acknowledge the local Aboriginal and Torres Strait Islander community's view on this issue, and the historical trauma that has been brought to light through consultation discussions. With this view made clear, it is recommended that the next step is to continue this conversation with the wider community included, noting that the use of public spaces – and the behaviours considered acceptable within public spaces, including the consumption of liquor – remains a contested issue that presents significant public safety challenges, but is also constant point of debate within the community. Community safety and public amenity issues within our entertainment and night-time economy precincts must be considered with regard to the consumption of liquor in public places, particularly considering the current context. It is important to consider that any snap decisions made without a full picture and consultation process could result in serious ramifications within the community and challenge important stakeholder relationships.

This report represents a crucial first stage of a number of important stages of work. Further work will ensure Council has a full picture of available options, including bench-marking with similar municipalities and consideration of associated costs and resourcing, to ensure any future decisions in response to issues arising from public consumption of liquor are fully understood by and discussed with the entire community and all stakeholders.

Financial Implications

Any further work determined to be undertaken at the direction of Council is likely to result in additional costs and resourcing implications. Upon the direction of Council on the next stages of work beyond the scope of this report and before deciding on the future of any Local Law (or an alternative response) related to the consumption of liquor in public places, it is recommended that Council direct officers to conduct further investigation into understanding how such responses would be resourced and commissioned.

PROPOSAL

The principal purpose of this report has been to present the consultation and associated research findings requested in Resolution 6372 to Council for consideration.

The presentation of the consultation findings and associated research is the preliminary stage of a multi-faceted program of work which includes:

(a) a thorough and nuanced investigation of multiple options;

(b) broad stakeholder engagement including continued engagement with the Aboriginal and Torres Strait Islander community;

(c) generating a proposal and seeking a direction from Council in mid-2021; and

(d) completing the required statutory process (es).

In establishing future directions or when making decisions on the matters discussed in this report, Council gives due consideration to the following matters:

(a) The current context cannot be separated from the community's perceptions of *Local Law 8*, which reverberates into the *Consumption of Liquor in Public Places Local Law* (adopted in October 2019), and will continue through to any future local law that affords an opportunity to discriminate;

(b) That inequity and racism is still viewed as inherent in the current *Consumption of Liquor in Public Places Local Law*, and that the consultation findings, associated research and majority of the steering committee feedback demonstrates that trauma felt by the Aboriginal and Torres Strait Islander community continues today;

(c) The issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet unavoidability related;

(d) This situation presents an opportunity for Council to address the evident historical and ongoing distress and trauma experienced in the Aboriginal and Torres Strait Islander community;

(e) There have been significant moments when Australian governments have made sincere and genuine efforts to apologise to the Aboriginal and Torres Strait Islander communities for past wrongs;

(f) The issues brought to light through this consultation are interlinked with a changing external environment including in relation to legislation, such as the repeal of public drunkenness from the *Summary Offences Act*. There is the possibility of a trial site for the Victorian Government's new model of care to be in the City of Yarra*;*

(g) Legal advice is that Council can only revoke an existing local law by making a new local law, with regard to the current *Consumption of Liquor in Public Places* local law due to sunset on 19 October 2021;

(h) It is paramount that the opinions and experiences of the Aboriginal and Torres Strait Islander community are valued and shared in broader consultation and engagement on this matter;

(i) Acknowledgement that the use of public spaces – and the behaviours considered acceptable within public spaces, including the consumption of liquor – remains a contested issue and a constant point of debate within the community;

(j) Acknowledgement that community safety and public amenity issues within our entertainment and night-time economy precincts, including in relation to major events such as New Year's Eve and the AFL Grand Final, must be considered with regard to the consumption of liquor in public places.

Endorse the following timelines and corresponding milestones for the 2021 calendar year:

(a) 30 March: Initial report to Council Meeting;

(b) April: Broad stakeholder engagement;

(c) Early May: Consultation results analysed; and

(d) 17 May: Council Briefing;

Support the following lines of inquiry for the broad stakeholder engagement:

(a) Whether to allow the current *Consumption of Liquor in Public Places Local Law* to sunset on 19 October 2021; and

(b) Whether it is appropriate to create a mechanism within a new local law or Yarra's General Local Law 2016 that enables Council to prescribe measures to promote public health and amenity at certain places and/or certain times and/or for certain events; and

(c) Whether it is beneficial or desirable to create a complementary alcohol and other drug policy, one that is referenced in any future local law and explicitly articulates Council's positions and objectives regarding community safety, health promotion and harm minimisation, including harm reduction; and

(d) How to support a local health-based response with regard to the issue of alcohol related harm, particularly episodic, and that responds to the unique context of Yarra with its popular entertainment and night time economy precincts, destination parks and reserves, and major public events.

Note that direction will be sought from Council at the meeting on 1 June for a decision to commence formal consultation on the future of any local law or an alternative response in relation to public consumption of liquor in public places.

Acknowledges the historical distress and trauma experienced in the Aboriginal and Torres Strait Islander community and that this cannot be separated from this community's perceptions of Local Law 8, which reverberates into the Consumption of Liquor in Public Places Local Law (adopted in October 2019).

Maintains its commitment to the ongoing dialogue with the Aboriginal and Torres Strait Islander community as it considers the future of local laws for the consumption of liquor in public places, and the means by which a socially just, health-based approach can be promoted.

8.4 Consultation findings and next steps regarding the Consumption of Liquor in Public Places Local Law

Reference	D21/24332
Author	Sarah Ernst - Policy Advisor
Authoriser	Director Community Wellbeing

Purpose

1. To present findings from the consultation and research undertaken in response to Resolution Item 6372 on 8 October 2019. This report also provides information on subsequent work required in response to the sunsetting of the *Consumption of Liquor in Public Places Local Law* on 19 October 2021. This report represents the first stage of a number of stages of work that are recommended to be undertaken before deciding on the future of any Local Law (or an alternative response) related to the consumption of liquor in public places.

Critical analysis

History and background

2. Following the direction of a Council resolution in October 2019 (Resolution Item 6372), officers have undertaken a consultation project to explore the impacts of regulation and enforcement of Yarra's local liquor law (concerning public consumption of alcohol), specifically for Yarra's Aboriginal and Torres Strait Islander community. Additionally, officers were asked to conduct research and examine opportunities to progress a socially-just, public health-based approach, as an alternative response to the *Consumption of Liquor in Public Place Local Law* (See D19/188873, Action Sheet 11.1).

3. Council officers engaged expert consultants to undertake in-depth consultation with public street drinkers, particularly from the Aboriginal and Torres Strait Islander community, on their experiences of drinking in public spaces, interactions with police or other law enforcement, opinions on current health and welfare-based responses/preferences and solutions for in-situ engagement to promote social inclusion as well as individual health, wellbeing and community safety.

4. This consultation was overseen by officers in conjunction with a steering committee of community members, stakeholders and experts with considerable combined knowledge. Members include representatives from Aboriginal and Torres Strait Islander community service providers, Department of Justice, Department of Health, Department of Families, Fairness and Housing, Victoria Police, alcohol and drug policy experts, legal services, Neighbourhood Justice Centre, health services, and outreach workers. The particulars of this group are discussed under the heading: Regular meetings between the Aboriginal and Torres Strait Islander community, relevant Council Officers and Victoria Police.

5. The purpose of the consultation was to seek understanding of the impact of Yarra's *Consumption of Liquor in Public Places Local Law* (due to sunset on 19 October 2021), particularly on Aboriginal and Torres Strait Islander people, and the community's preferred response(s) to the issues associated with public consumption of alcohol. A report on the findings of this consultation was provided to officers on Friday 12 February 2021 and is currently being considered.

6. The consultation findings (see Attachment 1 for full report) have been shared and presented to the community at an independently facilitated round-table discussion at the February Yana Ngargna meeting, involving community members and relevant local service providers. The consultation findings have also been discussed at the stakeholder working group meetings.

7. The outputs from this consultation, including the Aboriginal and Torres Strait Islander community's response to the issues, along with further in-house research and analysis, will form key information used by Council officers to provide informed advice as to Council's options concerning any future Local Law on Consumption of Liquor in Public Places, or an alternative approach, and any associated work that those options entail.

Local Law 8 (2009)

8. By way of background, the local law to control consumption of liquor in public places was first introduced in 2009. At the time this a was contentious decision as it was perceived by many people in the community as being an action targeting the local Aboriginal and Torres Strait Islander community who identify as the Parkies, who would regularly gather on Smith Street in Collingwood, which has long been a traditional meeting place for Aboriginal and Torres Strait Islander people.

9. Public behaviour on Smith Street was of great concern to Council at that time, as there was frequent street drinking and tensions with some residents and traders around the main shopping area. These issues were a focus of the 2008–2009 actions in the Council Plan, including social and cultural work through the Smith Street Community Plan.

10. In 2009, it appears that the law itself was considered a contentious solution, with the original report presenting the proposed local law to Council on 20 October 2009 confirming that,

> 'Many submissions reflected a strong view that the local law is discriminatory and will target disadvantaged and marginalised groups (indigenous people, African, young people, homeless and people with a mental illness) in an unfair and inequitable manner.'

11. The 2009 report further notes that, by contrast,

> 'A small number of submissions argued against the view that the local law is discriminatory and asked that it be applied to protect the interests of the broader community.'

12. It has become clear through the current consultation and discussions with Aboriginal and Torres Strait Islander community members and the majority of stakeholder groups that this view of inequity and racism is still viewed as inherent in the local law today.

13. The historical distress and trauma experienced in the Aboriginal and Torres Strait Islander community cannot be separated from this community's perceptions of *Local Law 8*, which reverberates into the *Consumption of Liquor in Public Places Local Law* (adopted in October 2019).

14. It is also noted that the issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet in the view of many, unavoidability related. While the process undertaken by Council officers has been directed to examine public *drinking*, not *drunkenness*, as defined in the current local law, the nature of qualitative data collected throughout the consultation (and indeed the development of perception) is that it is based on the experiential perspective of participants who do not necessarily view the laws and associated issues as distinct. This is discussed in further detail throughout the report.

Consumption of Liquor in Public Places Local Law 2019

15. In anticipation of Local Law 8 sunsetting on 19 October 2019, Council was bound by statutory obligations to undertake wide public consultation and a new law was drafted, the *Consumption of Liquor in Public Places Local Law 2019*.

16. The objectives of the law are stated as follows:

    (a) to control the consumption and possession of Liquor in Public Places within the Municipal District, including where such consumption or possession may interfere with the amenity and enjoyment of Public Places or of land in the vicinity of Public Places;

    (b) promoting the minimisation of alcohol-related harm by restricting the opportunity for unregulated public drinking within the Municipal District;

(c) supporting the effective governance of the Municipal District by promoting improved amenity of public spaces and discouraging anti-social behaviour;

(d) providing an effective means for police to deal with unregulated public drinking;

(e) improving the management of festivals and events to reduce risk to attendees, organisers, and Council; and

(f) the peace, order and good government of the Municipal District.

17. Formal submissions on the draft 2019 law were invited from the community in August and September 2019. During this period more than 30 submissions were received with views expressed on key issues raised including:

(a) The unfair impact on Aboriginal and Torres Strait Islander people and people facing disadvantage;

(b) A stated misplaced focus on the consumption of alcohol instead of anti-social behaviour;

(c) The need to exercise alternatives to law enforcement and address alcohol-related harms through community education and health promotion;

(d) A conviction that a council should not be allowed to prohibit public drinking through local laws;

(e) A belief that public drinking should be entirely prohibited and that permitting alcohol use in parks makes these less welcoming places;

(f) A desire to restrict public drinking to only licensed venues and events; and

(g) A concern for the welfare of young children exposed to public drinking.

18. Half of the submissions received in relation to the renewal of the local law did not support its extension in the current form. A number of submitters also presented at the Council meeting.

19. On 8 October 2019, Yarra Council resolved to update its regulation of public drinking by adopting the *Consumption of Liquor in Public Places Local Law* on 19 October 2019. The local law was adopted to operate for up to two years, rather than the standard 10 years and remains in place until 19 October 2021.

20. In resolving to adopt the Consumption of Liquor in Public Places Local Law on 19 October 2019, a number of items were requested to be undertaken prior to the law sunsetting on 19 October 2021. These items are presented in this report.

Regular meetings between the Aboriginal and Torres Strait Islander community, relevant Council Officers and Victoria Police

21. As requested by Resolution Item 6372, item J, the recent consultation was overseen by Council officers in conjunction with a steering committee of community members, stakeholders and experts with considerable combined knowledge. Members of this working group included representatives from Aboriginal and Torres Strait Islander community service providers, Department of Justice, Department of Health, Department of Families, Fairness and Housing, Victoria Police, alcohol and drug policy experts, legal services, Neighbourhood Justice Centre, health services and outreach workers and the consultation's researchers.

22. The first meeting of the steering committee was held on 19 February 2020, following the appointment of expert consultants to undertake the consultation. The COVID-19 pandemic impacts came into effect in mid-March 2020, leading to Stage 3 and 4 restrictions. In the face of continued uncertainty, the committee was informed in early May 2020 that the consultation was placed on hiatus.

23. Despite the consultation pause, a meeting placeholder for 9 September 2020 was put in place, to provide updates back to the committee. In June 2020, Councillors were informed of the progress of the consultation, and there was broad support for the project to remain on hiatus until safe to resume, noting that it would be unlikely (particularly in light of the unpredictability of the COVID-19 situation) to be before November 2020. With the Stage 4 lockdown continuing, the meeting scheduled with the committee for September was rescheduled to October, pending new information.

24. With the easing of restrictions and the hard lockdown in Melbourne in November 2020, virtual meetings were resumed with the committee. The committee met virtually on 28 October 2020, 25 November 2020 and 12 December 2020. The most recent meeting of the committee was held virtually on 25 February 2021, where the findings of the final report were discussed (following the discussion of the report with the Aboriginal and Torres Strait Islander community the previous week, at the Yana Ngargna meeting).

Discussion

Coroner's findings in the case of Ms Tanya Day

25. Item K (i) of Resolution 6372 requests research regarding the findings into the death of Ms Tanya Day in 2017, which occurred while she was in police custody having been arrested solely for public drunkenness.

26. Coroner English's findings and recommendations in relation to the inquiry into the death of Ms Tanya Day resulted in the Victorian Government moving to repeal criminalisation of *public drunkenness* under the Summary Offences Act. Coroner English noted that this repeal was first recommended in 1989 as an outcome of the Royal Commission to Aboriginal Deaths in Custody (Commission Recommendation 79).

27. The Coroner's inquest had the scope not only to examine the appropriateness of medical treatment that Ms Day received from the ambulance service, but all of the actions leading up to that point on the day of her incarceration, examining not only *what* happened but *why* (paragraph 98), and whether systemic racism was a factor (paragraph 100).

28. On 5 December 2017, Ms Day fell asleep on a V/Line train. Upon finding her asleep with her legs in the aisle while checking tickets, the conductor woke (and startled) Ms Day, at which point he judged Ms Day to be under the influence of alcohol and/or drugs and formed the view that she was 'unruly' (paragraph 181). He notified the driver to contact the police so that Ms Day could be put off the train. The Coroner noted that the conductor had the capacity to use discretion to either leave Ms Day alone (as it was established he often did with the three plus sleeping people he came across on trains every week), or initiate a medical response, as is advised in V/Line's mental health guidelines.

29. According to the Coroner's report, Victorian Police policy is to use a coma scale of 1 (no response) to 5 (completely awake and oriented in their environment) to assess those in their custody continuously, according to their level of awareness, clarity and coherence (paragraph 262). Despite Ms Day falling between the ratings of 3 ('Meaningless and Unintelligible') and 2 ('Confused'), both of which recommend that medical advice and/or assistance be sought, this was not considered by the arresting or supervising officers (paragraphs 264–275). This failure of procedure demonstrates that, while protocols may be in place, unless they are a part of a core process, it remains a matter of discretion as to how and whether they are applied at the time of an incident.

30. While in police custody, Ms Day sustained traumatic head injuries from falling hard against the concrete walls and floor of her cell on multiple occasions, incidents that were visible through the closed-circuit camera feed. Medical assistance was not urgently sought, ultimately resulting in Ms Day's death from these injuries. The Coroner noted that, while it was possible that Ms Day would not have made a full recovery even with urgent medical attention, a significant opportunity to save her life was missed.

31. Coroner English found that structural racism and unconscious bias influenced the decision to remove Ms Day from the train on which she was sleeping instead of letting her be, and a lack of alternative pathways available to the police, combined with the pressure of social and legal expectation to take action, resulted in Ms Day's incarceration.

32. No evidence could be established by the Coroner that Ms Day caused any disruption, and it was concluded that a snap judgement was made that she was 'Aboriginal' and a 'trouble-maker' and that this resulted in her being put off the train, with the subsequent events occurring solely because she was deemed to be drunk. Had public drunkenness not been an offence, Coroner English concluded, Ms Day could have been assisted by medical professionals instead, without relying on the inherent unconscious bias embedded in the discretion of those in power. First, this was seen in the discretion of the train conductor, and then that bias was seen in the discretion of the police officers.

33. While no witnesses 'admitted to holding racist beliefs' (paragraph 108), the Coroner notes that the application of systemic racism through unconscious bias inherent in discretion as to whether or not to charge Ms Day and when and how to act on that was considerable and of relevance (paragraph 113), with police discretion as it applies to public drunkenness being 'very broad' (paragraph 114).

34. On this matter of discretion, Coroner English recognises that it is an essential part of modern policing, used not to decide whether an offence has occurred, but what action to take in response (paragraphs 116–118). Further to this, Coroner English notes that discretion is also inherently problematic as it leaves considerable room for discrimination and unconscious bias (paragraphs 116 –120). The Coroner observed that guidelines that could assist in mitigating these problems are essential. However, currently they do not exist in relation to drunkenness, and if they did they would likely be ineffective, as judgements are made quickly and under pressure and discretion can 'easily end up operating adversely against those who lack power and influence' (Commissioner Wootten speaking on a previous Aboriginal death in custody case and quoted by Coroner English, paragraph 119).

35. The attending police officer who responded to the call from V/Line to remove Ms Day from the train is a case in point. Senior Constable Thomas noted, that while he believed Ms Day to be intoxicated, he observed that 'she wasn't causing any trouble, she was asleep'. SC Thomas took Ms Day into custody any way because it was clear that she was unable to remain on the train, due to the community and V/Line expectations, and from a welfare perspective he was afraid he would be liable later on if he left her on the train and something happened (paragraphs 244–249).

36. Coroner English noted that choice made in removing Ms Day from the train, was at least in part to do with the expectations of V/Line, and the associated time pressures, and the social pressures from 'the disgusted looks' of other passengers. Although Coroner English felt that the unconscious bias from the arresting officer could not be clearly defined, the other pressures were equally detrimental to the decision made. Accordingly, in the end, while to do otherwise was considered by the Senior Constable, the various social pressures to act quickly and remove Ms Day from the train outweighed other discretionary considerations, despite the view of Victorian Police being that arrests for drunkenness should be used as 'a last resort not a first' (paragraphs 249–253).

37. In addition to recommending the repeal of the offence of public drunkenness as an outcome of the inquest into Ms Day's experiences and subsequent death, the Coroner was asked by Ms Day's family to consider the charge of negligent manslaughter in relation to Ms Day's death. Coroner English determined that, based on the evidence that demonstrated a chain of serious failures by those responsible for taking and caring for Ms Day in custody, there may be a case for negligent manslaughter. While no action has yet been taken by the Director of Public Prosecutions, Coroner English has instructed the principal registrar to refer the matter to the Director for consideration (paragraphs 624–625).

Victorian Government public drunkenness repeal

38. Item K (ii) of Resolution 6372 instructs officers to give consideration to the Victorian Government's repeal of the charge of public drunkenness in the *Summary Offences Act*.

39. Following the State Coroner's recommendations from Ms Day's case, the Victorian Government of Victoria convened an Expert Reference Group (ERG) to report on public drunkenness in Victoria. In August 2020, the ERG delivered a report recommending that the Victorian Government abolish public drunkenness laws altogether, to be replaced by a health-focussed response model.

40. Legislation to decriminalise public drunkenness by amending the *Summary Offences Act* was passed in the Victorian Parliament on 19 February 2021. This marks the commencement of a two-year process to repeal the offence and replace it with a health-based response model that will be designed and trialled by the Victorian Government in consultation with the Aboriginal and Torres Strait Islander community, health experts and Victoria Police. It is noted that the Victorian Government's decriminalisation legislation will not take effect until 7 November 2022, following multiple trial sites throughout Victoria and once a health response is in place.

41. There is a working group of stakeholders, of which the Municipal Association of Victoria is part, to work on processes to support the repeal, and it is possible that there will be a review of local public drinking laws across Victorian Municipalities. While there is not yet any formal advice as to the relationship of local laws to the amendments in the *Summary Offences Act*, it is a possibility that local laws prohibiting consumption of liquor in public spaces would run counter to the state's legislation. This is a matter that is yet to be looked at, along with many other factors, during the next two years.

42. The Victorian Government's decision to establish a public health response model, to put services in place of criminalisation, sets it apart from other states in Australia where public drunkenness offences have been repealed. The additional step towards adopting a state-government driven, health-focussed model of care has not been contemplated or applied to the same degree in many other jurisdictions.

43. The Victorian Government's website states the following:

> *The government acknowledges the unacceptable, disproportionate impact that Victoria's current public drunkenness laws have had on Aboriginal people. We acknowledge that Victoria is one of only two states that have not yet decriminalised public drunkenness, and that the Aboriginal community have long advocated for public drunkenness to be decriminalised to help Victoria work towards a more just and equitable system. The ERG's report builds on a legacy of three decades of work and activism, including the 1991 Royal Commission into Aboriginal Deaths in Custody, and the recommendations of the Deputy State Coroner's inquest into the death of Ms Day.*
>
> *The government is fully committed to decriminalising public drunkenness and implementing a public health model to ensure that those who are intoxicated in public can access the healthcare and support they need. The ERG's report provides a framework for reform that the government supports and will work to take forward and implement.*
>
> *The ERG's vision is that those who are intoxicated in public and at risk to themselves or others will be safe, will have access to culturally-appropriate care, will have minimal contact with the criminal justice system, and that the safety of the community and first responders will be protected. A key aim of the model is to reduce incarceration and prevent deaths in custody.*

44. The Victorian Government's commitment comprises two key parts: firstly, the model is to be based upon minimising the role of a law enforcement response to public intoxication. Secondly, the model is based upon increasing access to health and social services as the primary response to public intoxication.

45. The four key components of the proposed health model focus on the following:

(a) Community outreach (to support immediate response, in-situ);

(b) Transportation (immediately, to a place of safety);

(c) Sobering care (initial service period); and

(d) Health and social care pathways (longer-term assessment).

46. The ERG's report included 86 recommendations and detailed advice on the possible design of the health model. The Victorian Government has stated that it supports the ERG's proposed overall approach and acknowledges that adequate resourcing is a key factor in the successful implementation of these reforms. It is noted that an initial $16 million has been allocated in the 2020–21 State Budget to commence implementation of the reforms. This includes the establishment several trial sites across the State where the public health model will be trialled and refined.

47. The ERG has recommended a 24-month implementation period for the public health model to:

(a) Establish trial sites for the health model in specific areas in Victoria; and

(b) Work closely with the Aboriginal community, first responders and the broader community to enact a cultural shift in our response to public intoxication.

48. The ERG's report states that approximately 50 percent of all public drunkenness offences between April 2014 and March 2019 occurred within eight local government areas (LGAs) in metropolitan Melbourne and in Greater Geelong: City of Melbourne, Greater Dandenong, Mornington Peninsula, City of Port Phillip, City of Yarra, Greater Geelong, City of Frankston and City of Stonnington. In relation to the number (percentage) of public drunkenness offences between 2014 and 2019, the City of Yarra ranks in the top five municipalities for arrests related to public drunkenness.

49. It is noted that three, possibly four trial sites are currently being contemplated by the Minister for Health The Hon. Martin Foley MP, with the expectation of a non-standardised approach taken in each site. This is to ensure different areas can test different models of care which reflect the local circumstances of that location and population. It is understood that the Minister for Health will formally announce the trial locations before April 2021, with the intention of establishing and commencing the trials in July 2021. No public announcement of the trial sites has been made at the time this report was prepared.

50. It is noted that the issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet in the public eye the strong perception is that they are related. To date the process undertaken by officers has been directed to examine public *drinking* as defined in the current local law, not *drunkenness*. However, it is important to note that the nature of qualitative data collected throughout the impact consultation is that it is based on the experiential perspective of participants who do not necessarily view the laws and associated issues as distinct.

51. However, the repeal of *public drunkenness* as a criminal offence does not preclude or prohibit the presence of a local law that prohibits public drinking, as is evidenced by many jurisdictions both in Australia and internationally (for example the City of Sydney local law that prohibits drinking, despite public drunkenness being decriminalised in 1979).

Research

Geographies of exclusion: Street drinking, gentrification and contests over public space

52. Item K (iii) of Resolution 6372 instructs officers to consider 'Geographies of exclusion: street drinking, gentrification and contests over public space'.

53. The research paper 'Geographies of exclusion: street drinking, gentrification and contests over public space', by Pennay, Manton and Savic (2014), published in the *International Journal of Drug Policy*, asserts that local laws that restrict drinking in public places have proliferated in Greater Melbourne as a result of inner-urban gentrification. It builds on the work of the same name by Sibly (1995), arguing that such local laws create geographical

exclusions of socially and economically marginalised communities in the inner city. People who cannot afford to live in private housing or drink in bars and restaurants are also excluded from public (and therefore social) spaces, amplifying socio-economic stratification and promoting isolation and stigma in communities.

54. Drawing on observational data, interviews and conversations with stakeholders and street drinkers in focus groups, the researchers compare the laws of three inner-urban municipalities (the Cities of Yarra, Darebin and Maribyrnong), evaluating the effectiveness of the public drinking bylaws versus their social impact. Through this study they build a case for considering whether laws such as these should be repealed and replaced with a more socially responsible management strategy, such as a public health-based response.

55. The study focuses specifically on daytime street drinkers, rather than on drinkers associated with the night-time economy (NTE), as this is a group of people who already live outside of the socio-economic mainstream. The researchers note that in addition to polarised socio-economic demographics resulting from the contrast of Yarra's large housing estates with extensive gentrification and urban renewal, Yarra holds a special connection for Aboriginal and Torres Strait Islander people as a place to live, visit and meet.

56. Each of the three cities compared in the study has some level of socio-economic polarisation and disadvantaged community members who are further marginalised as a result of geographical and time-based drinking restrictions. Amongst the municipalities in the study, however, the element of special connection for the Aboriginal and Torres Strait Islander community was (and is) unique to Yarra and noted as being based on both twentieth century history and pre-colonial traditions.

57. The comparative analysis of public drinking restrictions across the municipalities unearthed three key findings:

    (a) The location of 'hotspots' for street drinking was strongly influenced by urban renewal and gentrification, creating tensions over popular, busy social spaces;

    (b) The language used in the laws created a dichotomy of 'good' versus 'bad' drinkers and drinking behaviours, defining boundaries of inclusion and exclusion; and

    (c) The methods of implementation and enforcement of local laws influenced production of space and use of key hotspot areas, displacing street drinkers and furthering their social exclusion, but also giving rise to types of resistance to these restrictions.

58. In Yarra's case, the study found that some of the key hotspots for street drinking, such as Smith Street, were chosen particularly by Aboriginal and Torres Strait Islander people because these places have always been traditional meeting places in the area. Gathering in these places is considered an important way of maintaining social and cultural connection.

59. It appears from the study that it is common for restricted spaces to be contested: in all three municipalities, places with restrictions are generally considered to be vibrant shopping strips that are central to the social and economic activities of the area. It was a common concern of local traders in these areas that business could be compromised by the presence of street drinkers due to negative perceptions of safety and compromised amenity.

60. The researchers noted that, while the rhetoric around the idea of 'good' and 'bad' drinking tended to run along class lines (e.g. middle-class wine and cheese in the park versus a couple of cans of beer sitting on the street), there was also a spectrum of good and bad behaviours understood amongst street drinkers. In Maribyrnong, two marginalised groups of people from different cultural backgrounds were displaced by local drinking laws, with conflict arising between them over other spaces. One group felt compelled to return to the designated dry zone despite the restrictions, as it was perceived to be a safer option. The researchers observe that, in cases such as this, the visibility of street drinkers can be heightened because of issues relating to race and ethnicity intersecting with the restrictions.

61. In all three municipalities studied, the researchers observed that the local laws restricting consumption of liquor in public places contributed to socio-economic marginalisation, reinforcing existing inequity. Policies that target marginalised communities, the study found, serve only to distract from the larger structural inequities faced by these groups, creating barriers to addressing these systemic issues through policy and other measures. It is for this reason that the researchers conclude by recommending that local laws of this nature be reconsidered in favour of alternative policies and strategies that favour a more socially holistic approach.

Local laws in similar municipalities

62. Item k (iv) of Resolution 6372 instructed officers to consider similar local laws in nearby inner-Melbourne municipalities, including the Cities of Melbourne, Darebin and Boroondara.

63. Local laws in similar municipalities are implemented in a variety of ways with restrictions based around timing, geography, or a combination of both.

64. At present it appears that there are only two municipalities in Greater Melbourne that do not have a local law to restrict drinking in public, being Whittlesea, and Bayside.

65. Bayside has a *Neighbourhood Amenity* local law that this council is considering replacing with something that more closely resembles Yarra Council's local law.

66. Whittlesea has an *Alcohol Management Policy and Action Plan*, which is due for renewal and currently being evaluated. Whittlesea officers have advised that, to date, research for the current evaluation has not demonstrated a compelling reason for introducing local laws to restrict consumption of liquor in public places, and that such laws are not currently a local priority or area of specific concern for the Whittlesea area. It is noted that the Whittlesea and Yarra municipalities are not easily or obviously comparable.

67. It appears that no other inner-city municipality has contemplated alternatives to a local law related to the issue of consumption of liquor in public places and there is no comparable precedent to draw upon, including in relation to health-based approaches.

68. With regard to Yarra's neighbouring and comparable municipalities, all have a local law that restricts public drinking to varying degrees. The respective local laws restrict consumption of liquor in public places by using a combination of geographical and time-based restrictions and most are not standalone laws. Local laws for other comparable inner Melbourne municipalities are as follows (see attachments to this report for copies of each document referenced in the table):

Municipality	**Restriction type: Geographical/Timed**	**Standalone law? Y/N**	**Comments**
Yarra	Both	Y	*Consumption of Liquor in Public Places 2019* • Yarra has a standalone local law that bans the consumption of liquor in public places (drinking or unsealed containers) throughout the whole municipality, with the exemption of prescribed places between 9am and 9pm. • Additional restrictions operate in Council's parks on holidays including New Year's Eve and January 26.
Boroondara	Geographical	N	*City of Boroondara – Amenity Local Law* • Boroondara Council's Amenity Local Law provides a mechanism for Council to prescribe alcohol-restricted zones.

			• Boroondara has a historical designated dry zone in the area bounded by Burwood, Auburn and Barkers roads, and Power Street.
Darebin	Both	N	*Darebin General Local Law* Darebin Council's General Local Law makes provision for Council to restrict alcohol consumption in the municipality based on timing and geography. At present there are restrictions on alcohol consumption in two zones: 1) Surrounding Preston Market Shopping precinct in Preston, between Bell Street, Plenty Road, Murray Road, High Street, Regent Street, Spring Street and St Georges Road. 2) Edwardes Street shopping precinct in Reservoir, between Ralph Street, High Street, Cleeland Street, Olive Street and Byfield Street.
Melbourne	Both	N	*City of Melbourne's Activities Local Law 2019* Consumption of liquor is controlled under the City of Melbourne's *Activities Local Law 2019* and is banned in public places in the central business district 24 hours a day, every day, with the ban specified also for the following events: • New Year's Eve • Melbourne Moomba Waterfest • The Australian Grand Prix Consumption of liquor is also banned at major events in the streets and reserves of Carlton, in the area bounded by Victoria Parade and Swanston, Elgin and Nicholson streets and applies during the following events: • Carnivale on Lygon • New Year's Eve • The Australian Grand Prix • The Carlton Italian Fiesta Exemptions from the ban are: • Licensed outdoor dining • 'Responsible consumption' in public parks and gardens by individuals or groups of 50 people or less (other than during major events, as above.)
Maribyrnong	Both	N	*General Purposes Local Law 2015* Part 3, 'Consumption of alcohol in public places', provides a mechanism for Council to designate restricted areas through geography or specific times. Maribyrnong also has an *Alcohol and Other Drugs Policy*, which outlines the Council's overall position and the guiding principles followed in the municipality with regards to harm reduction through advocacy, research,

			partnerships, information provision and leadership. Policy acknowledges that social determinants of health in disadvantaged areas of the community and public health responsibilities.
Moreland	Both	N	Moreland City Council General Local Law 2018 Moreland's local law bans the drinking of alcohol in public places at all times, with the following exemptions: • Licensed outdoor dining areas (footpath trading) • Local parks and reserves on weekends and public holidays where the drinking of alcohol is permitted from 11am–6pm and from 11 am–10 pm during summer • Special events that have a Temporary Liquor Licence • Festivals
Port Phillip	Both	N	*City Of Port Phillip's Local Law No 1 (Community Amenity) 2013* • Consumption of alcohol is banned in streets and public places across Port Phillip from 8pm until 9am, with additional geographical and time-based restrictions. • Consumption and carrying of alcohol (in sealed or unsealed containers) on the foreshore area, including the beach and surrounding park, is entirely banned during the summer period, from 1 November until 31 March inclusive. • Bans are also specified for the following events: (a) St Kilda Festival (b) New Year's Eve (c) January 26 and (d) The Australian Grand Prix (e) Moomba Waterfest • Port Phillip also has a procedures manual that is to be read in conjunction with Local Law 1, which prescribes places and provides additional information regarding application of the local law.
Stonnington	Geographical – whole municipality	N	*Stonnington's General Local Law 2018 (No.1)* Consumption of liquor is banned in public places in Stonnington except for licensed premises or where a permit or exemption has been expressly issued by Council. This applies to unsealed containers of liquor and drinking, but people may carry sealed containers of liquor with them.

Information on how the Local Law sits amongst other related laws, including the *Crimes Act 1958* (Vic), the *Summary Offences Act 1966* and other related laws

69. Legal advice sought to clarify Council's options regarding the Local Law to restrict the consumption of alcohol in public places makes reference only to the relationship with the *Summary Offences Act 1966* (and the associated *Summary Offences Amendment (Decriminalisation of Public Drunkenness) Bill 2020*, which passed the Victorian Parliament on 19 February 2021, as mentioned above). Accordingly, it is this, rather than the Crimes Act 1958 (Vic), to which we look.

70. Specifically, the advice has regard to the act in considering the consequences of repealing the Local Law, the advice notes the Victorian Police have 'move on' powers under section 6 of the Act, reproduced as follows, as per the advice:

> (1) A police officer, or a protective services officer on duty at a designated place, may give a direction to a person or persons in a public place to leave the public place, or part of the public place, if the police officer or protective services officer suspects on reasonable grounds that—
>
> (a) the person is or persons are breaching, or likely to breach, the peace; or
>
> (b) the person is or persons are endangering, or likely to endanger, the safety of any other person; or
>
> (c) the behaviour of the person or persons is likely to cause injury to a person or damage to property or is otherwise a risk to public safety.
>
> (2) A direction under this section may be given orally.
>
> (3) A direction under this section may direct the person or persons not to return to the public place or part of a public place or not to be in that public place or part for a specified period of not more than 24 hours.
>
> (4) A person must not without reasonable excuse contravene a direction given to the person under this section.
>
> Penalty: 5 penalty units.
>
> (4A) A protective services officer may only exercise the power to give a direction under this section in relation to a person who is at a public place that is at, or in the vicinity of, a designated place.
>
> (5) This section does not apply in relation to a person who, whether in the company of other persons or not, is —
>
> (a) picketing a place of employment; or
>
> (b) demonstrating or protesting about a particular issue; or
>
> (c) speaking, bearing or otherwise identifying with a banner, placard or sign or otherwise behaving in a way that is apparently intended to publicise the person's view about a particular issue.

71. Further, the advice notes that should the consumption of alcohol lead to disorderly conduct, section 17A of the *Summary Offences Act* also provides provision under which Victorian Police could issue an infringement notice.

72. There is not yet any forthcoming information as to the nature of any review of municipal local laws to restrict public drinking that may arise from the repeal of public drunkenness as an offence under the *Summary Offences Act*. However, in a presentation to the Municipal Association of Victoria, representatives of the Victorian Government indicated that the repeal of Public Drunkenness must occur in parallel with other processes, such as an examination of local laws.

73. The use of the summary offences act however is a reactive tool for managing behaviour around public events is limited to situation where an offence either has already or is highly likely to occur, whereas the local law has enabled the opportunity for early intervention measures including education of the law, requests to cease and the tipping out of alcohol from open containers.

The consultation

Methodology and timelines

74. As directed by Council in item J of Resolution 6372, Council officers commissioned researchers from Monash University (in partnership with Turning Point and the Centre for Alcohol Policy Research at La Trobe University) to explore the experiences and needs of people who drink in public spaces in the City of Yarra.

75. The researchers were tasked with undertaking consultation with Aboriginal and Torres Strait Islander people and other marginalised street drinkers and to conduct qualitative research into the lived experience and sentiments of street drinkers in the City of Yarra. This included gauging the impacts of regulation and enforcement of public drinking laws and examination of the means to progress a socially just, public health approach.

76. Between November 2019 and February 2020, the researchers were appointed and commenced preparing the approach, methodology and processes to gain ethics approval to undertake the consultation. From January 2020, recruitment commenced with a significant focus on ensuring that the majority of participants were street drinkers from Aboriginal and Torres Strait Islander backgrounds.

77. The Aboriginal Partnerships and Social Strategy Units have worked closely together since October 2019 to facilitate the ongoing consultation with the Aboriginal and Torres Strait Islander community and other relevant Aboriginal community service stakeholders.

78. Part of this process was to ensure the project was guided by a stakeholder steering committee, which held its first session on 19 February 2020. Membership comprised local health and welfare service providers, Yarra Council officers, Victoria Police and representatives from Aboriginal and Torres Strait Islander services and organisations. This committee was established in line with the request of Council Resolution 6372 item l) to investigate options of conducting regular meetings with the Aboriginal and Torres Strait Islander community, relevant Council officers and Victoria Police to discuss the operation of the Local Law.

79. The consultation commenced in early March 2020. In response to the COVID-19 worldwide pandemic, a state of emergency was declared by Premier Daniel Andrews in the state of Victoria on 16 March 2020. On 30 March 2020, Stage three restrictions were introduced for a period of at least four weeks (with only four reasons to leave your home: food and supplies, medical care, exercise, and work or education).

80. Stage three or four restrictions related to COVID-19 continued for the best part of April 2020 through to late October 2020 in metropolitan Melbourne. For this entire period, the consultation was unable to continue, and the project was placed on hiatus.

81. Following a reconvening of the stakeholder steering committee meeting in late October 2020, the consultation recommenced in November 2020. Recruitment was carried out by publicising the consultation through the researchers existing alcohol-treatment service networks and Council officers helped facilitate community connections.

82. Consultation concluded in January 2021 with a total of 40 participants. It is noted that 63 percent of participants were from an Aboriginal and/or Torres Strait Islander background.

83. The report was provided to Council officers from the consultants on 12 February 2021 and finalised during the subsequent week (see Attachment 1).

84. On 18 February 2021, the first Yana Ngargna meeting for the year was held. The main agenda item for the meeting was the tabling and discussion of the findings from the consultation report, with the purpose to discuss the findings and provide advice from the community to Council. Following the meeting, information was sent out to all members of Yana Ngargna, to invite additional opportunity for those from the Aboriginal and Torres Strait Islander community to respond to the findings in the report and provide advice back to Council.

85. A stakeholder Steering Committee meeting was held on 25 February 2021, of which the purpose was to discuss the findings and provide additional advice and information to council.

Context

86. Just as the law was considered a contentious solution in 2009, the consultation indicated that the law is deemed by those community members who are against it to be racist and discriminatory with adverse effects directed towards vulnerable populations, such as the Aboriginal and Torres Strait Islander community. This view is a long-held perspective, with historical reference often made to the origins of Local Law 8 in 2009.

87. There is a lack of hard data as to enforcement of the local law since 2013, because it is said to be used as a cautionary tool, a situation that makes it difficult to quantify its application and analyse this alongside anecdotal evidence. With respect to public events, the local law has tended to be used extensively as an engagement tool by police to ensure existing public drinking stops, rather than as a punitive enforcement or fining tool. Council's local laws team can confirm that no fines have been realised in the last 8 years.

88. As mentioned elsewhere in this report, it is noted that the issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet unavoidability related, especially in the minds of those not entrenched in the topic. To date the process undertaken by officers has been directed to examine public *drinking*, not *drunkenness*, as defined in the current local law. However, it is important to note that the nature of qualitative data collected throughout the impact consultation is that it is based on the experiential perspective of participants who do not necessarily view the laws and associated issues as distinct.

89. There is currently a Memorandum of Understanding (Protocol) that outlines an agreement between Council and the Victorian Police as to the manner of enforcement of the Local Law, however there is no mechanism to determine how closely this is followed, or how effective it is. Anecdotal evidence is that it has become difficult to monitor in recent years, it is said to be used as a cautionary tool, and that relationships between the Victorian Police and community stakeholders need to be re-established, as they have deteriorated for a variety of reasons (e.g. turnover of community service workers and local police members, people having moved on, passed away or ceased street drinking).

90. As per Council's request, officers, as a part of the ongoing consultation, have conducted regular meetings as to the operation of the Local Law with the Aboriginal and Torres Strait Islander community and other community services and stakeholders, including the Victoria Police and representatives from the Department of Health and Human Services and Department of Justice. One of the actions to come out of the group is a commitment to reconvene the Smith Street Working Group and begin rebuilding relationships between stakeholders through this and similar initiatives.

91. In terms of wider context, were Council not to have any Local Law in place concerning public consumption of alcohol in public places, there would be no mechanism to restrict consumption of liquor outside of licensed premises in activity centres, nor in the municipality on New Year's Eve, January 26, or at festivals and around sporting events, including the AFL Grand Final Day and evening.

Findings and themes

92. The researchers explored three interconnected areas in interviews and focus groups with research participants:

    (a) Experiences of public drinking;

(b) Views and impacts of the public drinking local law; and

(c) Suggestions and desires for appropriate ways of responding to public drinking.

93. Key themes of the findings are grouped under each discussion area as follows:

Experiences of public drinking	Views and impacts of the public drinking local law	Participant suggestions for preferred response
• Positive: + Pleasure and social connection + Cultural and community connection • Negative: – Health harms – Exposure to violence – Experiences of stigma	• The law unfairly targets marginalised groups • The law is ineffective • Repeal the law	• Preferred responders: outreach, community, health and legal aid workers • Suggested services: wet houses, sobering up services and outreach • Broader response: access to health and social services, outreach and emergency worker training

94. As mentioned in previous sections of this report, the results were discussed with the consultation steering group, as well as in an independently facilitated session of the Yana Ngargna advisory group.

95. While the Yana Ngargna group agreed with the themes that emerged in participant interviews, there were concerns raised as to what an alternative response would look like, what this might involve and whether it would be appropriately resourced. The issue of how to respond to and manage safety around major public events however, was not specifically presented to the group for input.

96. Both groups noted the complexity of attitudes and feelings towards the law given the Aboriginal and Torres Strait Islander community's historical experience as a key demographic for Local Law 8 (as discussed in the Background section above). It was felt by the group that it is important to acknowledge the impact of this and that it cannot be extricated from the current discussion.

97. One respected Elder noted that, having completed this initial stage of consultation with street drinkers and Aboriginal and Torres Strait Islander community and service providers, the discussion must now be broadened out to include other stakeholders and the wider community. Particularly, he noted the importance of trader associations and liquor licensees (including packaged liquor outlets) with regard to addressing alcohol harms and local impacts.

Other issues

Community relations and law enforcement

98. Over many years, Council has sustained and strengthened many significant and respectful working relationships with a number of key stakeholders in the community. Some of these networks include the Yarra Drug and Health Forum, Yana Ngarna Advisory Committee, the Yarra Aboriginal Support Network (YASN), Community Partnerships meeting, Local Safety Reference Group, to name only a few.

99. Drawing on these relationships, and as requested by Resolution 6372, item j, the consultation was overseen by Council officers in conjunction with the newly established steering committee of community members, stakeholders and experts with considerable combined knowledge. Members of this working group include Aboriginal and Torres Strait Islander community service providers, Department of Justice, Department of Health, Department of Families, Fairness and Housing, Victoria Police, alcohol and drug policy experts, local legal services, Neighbourhood Justice Centre, health services, outreach workers and the consultation's expert researchers.

100. Through the current consultation and discussions with community members, it has become clear within the steering committee that the majority (but not all) stakeholder groups view inequity and racism as being inherent in the current Consumption of Liquor in Public Places Local Law 2019 (and historically in Local Law 8). It is evident that the historical and intergenerational trauma experienced in the Aboriginal and Torres Strait Islander community cannot be separated from the perception of these local law(s).

101. The consultation findings and feedback from the Aboriginal and Torres Strait Islander community (and the majority of the stakeholder group), have been clear and consistent in holding the view that the local law represents an opportunity for discrimination towards the Aboriginal and Torres Strait Islander community.

102. Further to this, and as mentioned above, within the steering committee it has become apparent that the relationships once held between the Aboriginal and Torres Strait Islander community and Victoria Police, such as the time in which the Smith Street Working Group was in operation, have deteriorated. Although is difficult to untangle the exact touchpoints between the community and Victoria Police, discussions have revealed that relationships are not what they once were. There is some recognition that this is due, in part, to the turnover of community service workers and local police members with established relationships but also due to some people having moved on, passed away or ceased street drinking.

103. It is noted that Victoria Police have consistently attended the steering committee meetings, however it is not straightforward to translate the good will that may exist at the more senior levels into informed discretionary behaviours at the operational level. To do so requires consistency and ongoing dedication for people to build trusting and respectful relationships at all levels of interaction over time. There has been a clear commitment from Victoria Police to do this. Cultural awareness is essential as well as robust processes within all stakeholder groups that interact in the public domain.

104. Some in the stakeholder group have made the assertion that, from a quantitative perspective, it can be difficult to pinpoint the particulars of the damage that this local law is viewed to have caused to the Aboriginal and Torres Strait Islander community, as compared to the influence, intersection and application of many other laws – including, for example, the offence of public drunkenness. This has been viewed as especially difficult when considering the significance (or lack thereof) placed on anecdotal, qualitative evidence in the weighting of decision-making.

105. This issue of guiding the application of discretion in enforcement speaks to the barriers that must be addressed if structure to guide police and community relations in Yarra is to be enacted effectively and consistently. While practical collaborative working groups, such as the Smith Street Working Group, have been measurably proven to improve community relationships, health outcomes and amenity in contested public spaces, the overall mechanisms available in Yarra's Memorandum of Understanding with the Victorian Police are viewed as limited in effectiveness.

<u>Contemporaneous issues in Yarra</u>

106. The use of public space (and what behaviours are considered acceptable within public spaces) remains a contested issue and constant point of debate within the community. This contest has continued in the intervening period since the current local law was adopted in October 2019, including as outlined in the sections above.

107. It is noted that, since Local Law 8 was adopted in 2010, there have been a number of problematic incidents within public spaces in Yarra, which have involved the public consumption of liquor. Perhaps the most significant of these was the illegal dance party that took place in Edinburgh Gardens on New Year's Eve in 2013, which attracted up to 20,000 revellers and resulted in several assaults and a clean-up bill of more than $30,000. Since then, there has been a ban on drinking on New Year's Eve in all public spaces in Yarra, with all-ages entertainment programmed in Edinburgh Gardens to create a family-friendly environment, and additional temporary infrastructure in Yarra's parks to increase amenity.

108. Over the last 10 years, the AFL Finals period has continued to attract significant crowds to the MCG. It is notable that, particularly over the last five years, Grand Final Day is an increasingly popular occasion for thousands of people to congregate near the MCG at locations in and around Swan Street, and has become the principal location to watch live sport or socialise after attending a nearby match, regardless of which teams feature in significant matches.

109. Over the last few years, there have been some incidents of anti-social behaviour, on Grand Final Day in particular, which have involved issues around consumption of liquor (sometimes in public places), and also public drunkenness. It is noteworthy that each year a significant amount of work is undertaken to ensure community safety and public amenity is maintained for this occurrence, with the local law forming the nucleus of the safety strategy. This preparedness commences months in advance of the Grand Final Day, led by Council officers, with active contributions and communications with external stakeholders and Council, to maintain amenity and promote community safety and wellbeing during the day and into the evening and next morning.

110. Most recently, the effects of the COVID-19 pandemic restrictions on limiting indoor gatherings and restricting movement outside a 5–25 kilometre radius has amplified the use of outdoor public areas and particularly parks and gardens, some of which are 'prescribed areas' that allow the consumption of liquor between certain hours, under the *Consumption of Liquor in Public Places Local Law*. The use of outdoor public spaces to meet within limited groups, and for a time as the sole opportunity for congregation, has created some disturbance and mounting concerns from the community, particularly over the recent summer months.

111. In terms of the dynamic public context related to the contested use and tolerable behaviours in public spaces (and indeed the consumption of liquor and anti-social behaviours in public spaces), it is noted that on 15 December 2020, Council Resolution 6859 required officers to, among a number of other requirements, establish an Edinburgh Gardens Working Group of regular park users, local residents and a representative of Fitzroy North Primary School, to inform future management of the gardens in peak periods over summer and public holidays.

112. The Terms of Reference document for this working group is currently being prepared, with a working group to meet as soon as possible upon completion. Officers have been directed to ensure the working group represents the diverse users of the Gardens, residents and key stakeholders and that the working group meet as soon as possible after the conclusion of the selection process.

113. This recent Resolution showcases the contested use of public spaces within the municipality, and particularly relates to issues including (but not limited to) the consumption of liquor and anti-social behaviours. As is the case for this work with regard to the local law, Council officers are currently undertaking a cross-organisational approach to meet the requirements of this Resolution, too.

114. The City of Yarra is renowned for being home to a unique, dynamic and celebrated night-time economy which unfortunately, has been significantly impacted by the COVID-19 pandemic. The issue of consumption of liquor in and around entertainment precincts (publicly and/or within licensed venues) and related community safety concerns remains a live tension which is managed through productive relationships, frequent communication and information sharing with Victoria Police, traders' associations, licensed venues, the Yarra Street Pastors and various others servicing and accessing the space. It is noted that the amplified use of outdoor areas and extensions to outdoor trading areas/use of parklets in response to the COVID-19 pandemic remains a key area of consideration in relation to crime statistics and public order, particularly noted by Victoria Police.

115. The duty of care and responsibility to the community in and around entertainment precincts and particularly around events and public holidays such as Grand Final Day remains an important issue with changing contexts and it must be kept in mind when considering mechanisms to respond to issues arising from the public consumption of liquor. Further investigation into how this could be best managed remains a key consideration for Council to provide further direction.

Other notable considerations

116. As raised by some in the Aboriginal and Torres Strait Islander community during discussion of the findings, it is important to note that consultation on the current local law has been limited to one demographic, while the future regarding public consumption of liquor in Yarra is yet to be decided and is subject to consultation with a number of other affected stakeholder groups.

117. It is fundamental that the Aboriginal and Torres Strait Islander community is part of any future actions taken in response to public consumption of alcohol, although the issues at stake are large and complex, and cannot be resolved from a single perspective. This matter also requires that a diverse variety of stakeholders, and the wider community become part of the conversation around any future direction taken by Council.

118. Elements of alternative responses, such as a public health model include the need to consider:

    (a) Transportation;

    (b) Outreach workers;

    (c) Health workers;

    (d) Sobering up facilities with accommodation that is both culturally and gender appropriate; and

    (e) Programs to involve people in supportive activities that encourage social connection.

119. Any alternatives or complements to a bylaw will have to be considered, planned, consulted on, and effectively costed and resourced. Consideration will also need to be given to the repeal of public drunkenness from the *Summary Offences Act* (a two-year repeal process with different health-based responses being trialled in parallel) and possible implications for public consumption of liquor local laws across Victoria.

120. A preliminary discussion was held with Aboriginal and Torres Strait Islander health, legal and cultural service providers and while considerable good will was shown from all involved to develop a feasible health model as an alternative response to the local law, it was agreed that any alternative option would require planning and a network of partners with considerable resources and a long-term commitment. Otherwise, as one person at the Yana Ngargna meeting noted, it could just be ‘dumped’ on existing, over-worked, under-resourced services to fulfil the obligations of the model, making their situation worse and impacting negatively on outcomes for the community.

121. An intention of the current local law is to manage public amenity and community safety as a pre-emptive tool (e.g. the escalation of anti-social behaviours as canvassed earlier). The risk in this is the way in which pre-empting behaviours lends itself to judgements involving unconscious bias and other prejudicial factors that can influence the discretion required for enforcement.

122. It is important to note that the Aboriginal and Torres Strait Islander community in Yarra has consistently voiced concerns that the local law affords opportunities for prejudice, stereotypes and profiling. This view has been made clear to Council through the invitation to consult. With this view made clear, the next step is to continue this conversation with the wider community. It would be a risk for Council not to acknowledge the local Aboriginal and Torres Strait Islander view on this issue, and the historical trauma that has been brought to light through consultation discussions. It would equally be a risk not to consult also with the wider community regarding the impact of any changes to the local law, as any snap

decisions made without a full picture and consultation process could have serious ramifications amongst the community and undermine stakeholder relationships.

123. In relation to the municipal night-time economy, licensed venues have expressed concerns to Council officers regarding pre-loading prior to attending events and side-loading during the course of visits to entertainment precincts. These practices enable people to get drunk and maintain a level of drunkenness affordably, but without the protections associated with licensed environments. Victoria Police have made it abundantly clear throughout the stakeholder group meetings and in submissions to the local law adopted in 2019 that they view the local law as an essential tool for their policing around crime prevention, community safety and keeping the peace.

124. In a 2014 evaluation of Yarra's Local Law 8 by Pennay et al for the National Drug Law Enforcement Research Fund, titled *Prohibiting public drinking in an urban area: Determining the impacts on police, the community and marginalised groups*, the researchers note that support for Local Law 8 at that time, while lower than other comparable municipalities, was still an 'overwhelming majority', being 67.9 percent of the residents and traders consulted (p. 49). It was also observed that the law appeared to have had a strong effect on improving amenity and perceptions of safety, although the recent nature of the law at that point made it difficult to definitively say (p. 57). However, residents in the study's focus groups reflected that, while they were pleased with the effects of the law on street drinking during the day, they were still concerned about problematic behaviours resulting from drinking at night in association with entertainment precincts (p. 49). It was noted that this appeared to be the main focus of amenity concerns after the introduction of the law.

125. Although gender has not been a central part of the discussion of consumption of liquor in Yarra to date, it is important to note the demographic breakdown of consultation participants in the current consultation, of whom 35 percent identify as women and 5 percent as LGBTIQ+. Drinking in public places, both with regard to street drinking, and also as an effect of the night-time economy, has considerable impact on people's perceptions of safety, and gender is no small part of this. Literature concerned with managing behaviours associated with the night-time economy point to the key demographic at the heart of the issues as primarily being men. It is problematic anti-social behaviours by men that laws and strategies around managing the night-time economy seek to address. Accordingly, it is key that consideration be given to gender analysis at the next stage of work in this matter.

Options

126. In establishing future directions or when making decisions on the matters discussed in this report, it is advised that Council give due consideration to the following matters:

    (a) The current context cannot be separated from the community's perceptions of *Local Law 8*, which reverberates into the *Consumption of Liquor in Public Places Local Law* (adopted in October 2019), and will continue through to any future local law that affords an opportunity to discriminate;

    (b) That inequity and racism is still viewed as inherent in the current *Consumption of Liquor in Public Places Local Law*, and that the consultation findings, associated research and majority of the steering committee feedback demonstrates that trauma felt by the Aboriginal and Torres Strait Islander community continues today;

    (c) The issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet unavoidability related;

    (d) This situation presents an opportunity for Council to address the evident historical and ongoing distress and trauma experienced in the Aboriginal and Torres Strait Islander community;

    (e) There have been significant moments when Australian governments have made sincere and genuine efforts to apologise to the Aboriginal and Torres Strait Islander communities for past wrongs;

(f) The issues brought to light through this consultation are interlinked with a changing external environment including in relation to legislation, such as the repeal of public drunkenness from the *Summary Offences Act*. There is the possibility of a trial site for the Victorian Government's new model of care to be in the City of Yarra*;*

(g) Legal advice is that Council can only revoke an existing local law by making a new local law, with regard to the current *Consumption of Liquor in Public Places* local law due to sunset on 19 October 2021;

(h) It is paramount that the opinions and experiences of the Aboriginal and Torres Strait Islander community are valued and shared in broader consultation and engagement on this matter;

(i) Acknowledgement that the use of public spaces – and the behaviours considered acceptable within public spaces, including the consumption of liquor – remains a contested issue and a constant point of debate within the community;

(j) Acknowledgement that community safety and public amenity issues within our entertainment and night-time economy precincts, including in relation to major events such as New Year's Eve and the AFL Grand Final, must be considered with regard to the consumption of liquor in public places.

127. Support the following parameters for the broad stakeholder engagement:

(a) Continue the conversation with the Aboriginal and Torres Strait Islander community, including about how to address the evident historical and ongoing distress and trauma experienced;

(b) Whether to allow the current Consumption of Liquor in Public Places Local Law to sunset on 19 October 2021; and

(c) Whether it is appropriate to create a mechanism within a new local law or Yarra's General Local Law 2016 that enables Council to prescribe measures to promote public health and amenity at certain places and/or certain times and/or for certain events; and

(d) Whether it is beneficial or desirable to create a complementary alcohol and other drug policy, one that is referenced in any future local law and explicitly articulates Council's positions and objectives in regard to community safety, public health promotion and harm minimisation, including harm reduction; and

(e) How to support a local health-based response with regard to the issue of alcohol related harm, particularly episodic, and that responds to the unique context of Yarra with its popular entertainment and night-time economy precincts, destination parks and reserves, and major public events.

128. Note that direction will be sought from Council at the meeting on 1 June for a decision to commence formal consultation on the future of any local law or an alternative response in relation to public consumption of liquor in public places.

Community and stakeholder engagement

129. The community engagement and research undertaken so far was stage one of the work required to inform Council of impacts and options regarding the future of the *Consumption of Liquor in Public Places 2019* Local Law.

130. The timeframe for the process between now and the sunsetting of the law in October 2021 is as follows, with the current stage highlighted:

Date	**Action**
18 – 23 February	Consultation report received and discussed with community and stakeholders
15 March	**Council Briefing**

30 March	**Report to Council Meeting**
April	Broad stakeholder engagement
Early May	Consultation results analysed
17 May	Council Briefing
1 June	**Council Meeting – decision to commence formal consultation**
Mid-June to mid-July	Formal consultation undertaken
Late July	Consultation results analysed
August	Proposal finalised
6 September *or* 4 October	Council Briefing – proposal for review
5 October *or* 19 October	**Council Meeting – decision on local law**
19 October	**Existing law sunsets**

131. As noted above, a respected Elder in the steering group raised concerns that the consultation had not yet included traders' associations and licensees, despite the responsibility these groups hold in regard to supply of liquor in Yarra. The Elder suggested that broadening the conversation to involve the wider community is the next logical step in the process of Council deciding on the future response to public drinking and it would be remiss not to do so on such a contentious issue.

132. Council's recently adopted Engagement Policy commits to a process that ensures transparent and accountable engagement, which seeks to ensure that Yarra's community clearly understands 'the scope and potential impact of a decision, the type of influence they can have on it' and that they are made aware of the outcomes of their participation. This is achieved through a cycle of three stages:

    (a) Empowering with information;

    (b) Explaining the scope of influence; and

    (c) Report back on the outcome and next steps.

Policy analysis

Alignment to Council Plan

133. Objective 2, An Inclusive Yarra, is applicable to this work through Strategy 2.2, as follows:

    Remain a highly inclusive municipality, proactive in advancing and advocating for the rights and interests of specific groups in the community and community issues.

Climate emergency and sustainability implications

134. Nil.

Community and social implications

135. As noted above, there are inherent risks and potentially negative implications if a continued consultation process is not followed through with the wider community (e.g. traders, residents, Edinburgh Gardens Committee).

Economic development implications

136. Consultation with traders is an important part of the wider consultation to come, as discussed throughout this report.

137. It is noted that due to the implications of COVID-19, many traders will be under pressure to make up for lost revenue, particularly in the hospitality and entertainment industries.

138. Contested public spaces, such as Edinburgh Gardens are experiencing heightened community demand and commensurate issues in relation to socialisation and the safety of the community during easing restrictions and development of a 'COVID-normal'.

Human rights and gender equality implications

139. When the existing local law was brought before Council in October 2019, it included a compatibility statement with regard to Victoria's Human Rights Charter. Another assessment will be undertaken with any statutory process that results from the next stages of this work.

140. As noted in the discussion above, there are considerable gender implications to reflect upon with regard to any consumption of liquor in public places response. Issues for consideration include but are not limited to: safety, health, anti-social behaviours and the impacts of masculine binge drinking culture. It is recommended that a detailed gender analysis be carried out as part of the next stage of work on this matter.

Operational analysis

Financial and resource impacts

141. Alternative responses to manage the consumption of liquor in public places would require considerable financial and human resources. Further work is necessary to understand how such responses would be resourced and commissioned.

Legal Implications

142. In relation to the time horizon and life of the current *Consumption of Liquor in Public Places Local Law*, the following legal advice has been received in regard to the *Legislation Act 1984*, the *Local Government Act 1989* (current until 1 July 2021), and the *Local Government Act 2020* (from 1 July 2021 onwards).

    (i) Council can only revoke an existing local law by making a new local law. As much is clear from the Interpretation of Legislation Act 1984 (the ILA).

    (ii) A local law revoking an existing local law does not require the approval of the Minister or, for that matter, any external party.

    (iii) Until 1 July this year, the statutory process for revoking an existing local law (by making a new local law) is governed by the 1989 Act. In broad terms, this involves Council:

        3.1 resolving to give public notice of its intention to make a local law (which revokes an existing local law) and inviting submissions under s 223 of the 1989 Act.

        Notice must also appear in the Victoria Government Gazette (the Gazette);

        3.2 considering any submissions that are made under s 223;

        and

        3.3 resolving to make the local law (the effect of which is to revoke the existing local law), and to give public notice of this.

    Notice must also appear in the Gazette.

    From 1 July onwards, the process will be governed by the Local Government Act 2020 (the 2020 Act). That process is not altogether certain, given the possibility that Regulations may be made as to where any public notice must appear.

    What is clear is that – broadly speaking – the process will involve Council:

        3.4 resolving to give notice on its internet site of its intention to make a new local law (revoking an existing local law);

        3.5 undertaking a community engagement process, in accordance with its community engagement policy;

3.6 obtaining a certificate from an Australian lawyer with the requisite qualifications that the local law will be consistent with the 'local law requirements' set out in the 2020 Act; and

3.7 resolving to make the local law (having the effect of revoking the existing local law), and to give public notice of this in the Gazette and on Council's internet site.

Conclusion

143. The consumption of liquor in public places and the associated issues are complex. It is important to note that the Aboriginal and Torres Strait Islander community in Yarra has consistently voiced concerns that the local law affords opportunities for prejudice, stereotypes and profiling.

144. With this view made clear, the next step is to continue this conversation with the wider community. Further work is required, as set out throughout this report, to ensure that Council has a full picture of the available options, associated costs and resourcing, and that the impact of any decisions taken by Council in response to issues arising from public consumption of liquor are fully understood by and discussed with the broader community and all stakeholders.

145. There is a clear need for Council to acknowledge the local Aboriginal and Torres Strait Islander community's view on this issue, and the historical trauma that has been brought to light through consultation discussions. Council must also consult with the wider community regarding the impact of any changes to the local law, particularly in the current context, as any snap decisions made without a full picture and consultation process could have serious ramifications amongst the community and challenge important stakeholder relationships.

RECOMMENDATION

1. That Council:

   (a) note that the principal purpose of this report has been to present the consultation and associated research findings requested in Resolution 6372 to Council for consideration.

   (b) note that the presentation of the consultation findings and associated research is the preliminary stage of a multi-faceted program of work which includes:

      (i) a thorough and nuanced investigation of multiple options;

      (ii) broad stakeholder engagement including continued engagement with the Aboriginal and Torres Strait Islander community;

      (iii) generating a proposal and seeking a direction from Council in mid-2021; and

      (iv) completing the required statutory process(es);

   (c) note that in establishing future directions or when making decisions on the matters discussed in this report, Council gives due consideration to the following matters:

      (i) the current context cannot be separated from the community's perceptions of *Local Law 8*, which reverberates into the *Consumption of Liquor in Public Places Local Law* (adopted in October 2019), and will continue through to any future local law that affords an opportunity to discriminate;

      (ii) that inequity and racism is still viewed as inherent in the current *Consumption of Liquor in Public Places Local Law*, and that the consultation findings, associated research and majority of the steering committee feedback demonstrates that trauma felt by the Aboriginal and Torres Strait Islander community continues today;

(iii) the issues of public drunkenness as compared to the consumption of liquor in public places are distinct, yet unavoidability related;

(iv) this situation presents an opportunity for Council to address the evident historical and ongoing distress and trauma experienced in the Aboriginal and Torres Strait Islander community;

(v) there have been significant moments when Australian governments have made sincere and genuine efforts to apologise to the Aboriginal and Torres Strait Islander communities for past wrongs;

(vi) the issues brought to light through this consultation are interlinked with a changing external environment including in relation to legislation, such as the repeal of public drunkenness from the *Summary Offences Act*. There is the possibility of a trial site for the Victorian Government's new model of care to be in the City of Yarra*;*

(vii) legal advice is that Council can only revoke an existing local law by making a new local law, with regard to the current *Consumption of Liquor in Public Places* local law due to sunset on 19 October 2021;

(viii) it is paramount that the opinions and experiences of the Aboriginal and Torres Strait Islander community are valued and shared in broader consultation and engagement on this matter;

(ix) acknowledgement that the use of public spaces – and the behaviours considered acceptable within public spaces, including the consumption of liquor – remains a contested issue and a constant point of debate within the community;

(x) acknowledgement that community safety and public amenity issues within our entertainment and night-time economy precincts, including in relation to major events such as New Year's Eve and the AFL Grand Final, must be considered with regard to the consumption of liquor in public places;

(d) endorse the following timelines and corresponding milestones for the 2021 calendar year:

(i) 30 March: Report to Council Meeting;

(ii) April: Broad stakeholder engagement;

(iii) Early May: Consultation results analysed; and

(iv) 17 May: Council Briefing;

(e) support the following lines of inquiry for the broad stakeholder engagement:

(i) Whether to allow the current *Consumption of Liquor in Public Places Local Law* to sunset on 19 October 2021; and

(ii) Whether it is appropriate to create a mechanism within a new local law or within Yarra's General Local Law 2016 that enables Council to prescribe measures to promote public health and amenity at certain places and/or certain times and/or for certain events; and

(iii) Whether it is beneficial or desirable to create a complementary alcohol and other drug policy, one that is referenced in any future local law and explicitly articulates Council's positions and objectives regarding community safety, health promotion and harm minimisation, including harm reduction; and

(iv) How to support a local health-based response with regard to the issue of alcohol related harm, particularly episodic, and that responds to the unique context of Yarra with its popular entertainment and night time economy precincts, destination parks and reserves, and major public events;

(f) note that direction will be sought from Council at the meeting on 1 June for a decision to commence formal consultation on the future of any local law or an alternative response in relation to public consumption of liquor in public places;

(g) acknowledges the historical distress and trauma experienced in the Aboriginal and Torres Strait Islander community and that this cannot be separated from this community's perceptions of Local Law 8, which reverberates into the Consumption of Liquor in Public Places Local Law (adopted in October 2019); and

(h) maintains its commitment to the ongoing dialogue with the Aboriginal and Torres Strait Islander community as it considers the future of local laws for the consumption of liquor in public places, and the means by which a socially just, health-based approach can be promoted.

Attachments

1⇩ Yarra - Consultation on public drinking report FINAL 26 Feb 2021

2⇩ Yarra - Consumption of Liquor in Public Places Local Law 2019

3⇩ Boroondara - Amenity Local Law

4⇩ Maribyrnong - General-Purposes-Local-Law-2015

5⇩ Maribyrnong - Alcohol-and-Other-Drugs-Policy-2017-2021

6⇩ Melbourne - Activities-local-law-2019

7⇩ Moreland - General-local-law-2018

8⇩ Port Phillip - Local-law-number-1-community-amenity

9⇩ Port Phillip - Updated-procedures-and-protocols-manual

10⇩ Stonnington - General-local-law-2018

Attachment 1 - Yarra - Consultation on public drinking report FINAL 26 Feb 2021

Turning Point
TREATMENT · RESEARCH · EDUCATION

EXPLORING THE EXPERIENCES AND NEEDS OF PEOPLE WHO DRINK IN PUBLIC PLACES IN THE CITY OF YARRA

February 2021

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MONASH University
easternhealth
LA TROBE UNIVERSITY

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Executive summary

Introduction

Yarra Council updated its regulation of public drinking by adopting the Consumption of Liquor in Public Places Local Law 2019 in October 2019. The new local law will operate for up to two years, rather than the standard 10 years. During the two-year period, Yarra Council will consult with people who drink in public to explore opportunities for health-based response(s) to public drinking. Yarra Council has commissioned researchers from Monash University (in partnership with Turning Point and the Centre for Alcohol Policy Research at La Trobe University) to undertake additional research as part of this consultation.

Aim

This project aimed to explore the experiences and needs of people who drink in public spaces in the City of Yarra (henceforth referred to as 'Yarra') in order to inform council responses to public drinking in Yarra. In particular, the project sought to foreground the voices of Aboriginal and Torres Strait Islander people and other marginalised street drinkers who congregate in hot spots in Yarra (Smith St, Atherton Gardens and North Richmond housing estate). This project addressed the following research questions:

1. What are participants' experiences of public drinking?
2. How have participants been impacted by the public drinking law?
3. What do participants think are appropriate ways of responding to public drinking?

Methods

Overseen by a steering committee, this project utilised a qualitative approach to address the research questions and develop insights. This involved recruiting 40 participants to participate in interviews or focus groups, which lasted approximately 40 minutes. To be eligible to participate in the study, participants needed to be aged 18 years or over and have consumed alcohol at identified 'hot spots'. Most participants were Aboriginal and Torres Strait Islander (65%) and about a third were women. Half had not finished year 12, most were unemployed (90%) and at least 50% mentioned experiencing homelessness currently or in the past. Participants had been public drinking in Yarra for about 8 years on average and almost 70% were daily (or near daily) drinkers. Interview and focus group transcripts were analysed using thematic analysis, in which common themes, as well as sub-themes were identified.

Findings

Three interconnected areas were explored: 1) Experiences of public drinking, 2) Views and impacts of the public drinking law, 3) Suggestions and desires for appropriate ways of responding to public drinking. Several sub-themes were identified in relation to each of these main areas (see Table 1).

Table 1: Overview of themes

1. Experiences of public drinking	**2. Views and impacts of the public drinking law**	**3. Suggestions for appropriate ways of responding**
1.1 Context of public drinking	2.1 Awareness of the public drinking law	3.1 Health-based response as the preferred approach
1.2 Positive aspects of public drinking a) Pleasure and social connection	2.2 Experiences of the public drinking law	3.2 Preferred responders a) Outreach and community workers b) Paramedics c) Police d) Aboriginal and Torres Strait Islander legal aid workers
1.3 Negative aspects of public drinking a) Health harms b) Exposure to violence c) Experiences of stigma	2.3 The law unfairly targets marginalised groups	3.3 Preferred services and responses a) Wet houses b) Sobering up services c) Public space design d) Outreach services
	2.4 The law is ineffective	3.4 Preferred broader responses to public drinking a) Access to health and social services b) Emergency services and outreach worker training c) Alcohol sales d) Equity for all
	2.5 Repealing the law	

1. Experiences of public drinking

The contexts and reasons people consumed alcohol in public were diverse, but often included not feeling comfortable or being able to afford to drink in licensed venues. Public drinking was experienced as a valued practice that enhanced social connection. It also provided pleasure and temporary reprieve from a range of challenging psychosocial issues and life circumstances related to marginalisation, including housing, employment, social isolation, and mental health issues. Aboriginal and Torres Strait Islander participants also reported challenges associated with past and present experiences of discrimination and racism. While drinking was constructed as a valued practice, participants also recalled a range of negative experiences related to public drinking including health harms, exposure to violence, and stigma.

2. Views about the public drinking law

With a few exceptions, there was limited awareness and understanding of the public drinking law, with some participants unaware it existed at all. Almost all participants (90%) had experienced contact with law enforcement officers for public drinking. While some interactions with police were positive, generally interactions with police were characterised as negative experiences that had a range of undesirable legal, social, cultural, and wellbeing impacts. Although participants may have been reflecting on experiences that occurred at different points in time and things might have

improved recently, Aboriginal and Torres Strait Islander (as well as homeless) participants generally felt unfairly targeted by the public drinking law. Not only did most participants think the law was undesirable, they also thought it had little to no deterrent impact on their public drinking practices. Given this, most participants were supportive of repealing the law.

3. Suggestions for appropriate ways of responding

Participants communicated several desires and suggestions for appropriate ways of responding to public drinking and related needs. Irrespective of whether participants supported the law, the majority believed that public drinking is not a criminal-justice issue and instead, that a health-based approach was preferable to a punitive approach. Central to this was the idea that people who drink in public should be treated with dignity and respect.

Many participants felt that outreach workers, in particular outreach workers who are Aboriginal and Torres Strait Islander, and/or who have lived experience of public drinking, are the ideal people to respond to issues that arise from public drinking. Given this, participants suggested that outreach services should be scaled up to support them with various related psychosocial needs. Food vans or barbeques were also considered important to connect people to services.

Paramedics were viewed as best to respond to acute medical events. Where there was risk, for example, of violence, to people who drink in public or first responders, police were thought to be a useful part of a health-based approach, especially in terms of transportation to a safe space (and as long as they treat people respectfully). However, some participants thought that if Aboriginal and Torres Strait Islander people were subjected to police or justice responses, it was vital that oversights existed, including access to Aboriginal and Torres Strait Islander legal aid support. There was a view that local relationships with police and community needed to be improved.

When discussing services to respond to public drinking, the idea of wet spaces – places where people could drink safely – was a divisive issue. Some participants believed they would be effective and comparable to the medically supervised injecting room. However, others thought they were stigmatising and risky, especially when bringing potentially intoxicated people together in a small space. Many people liked to be drinking outside, so there was a preference for any wet space to be outside rather than being in an indoor space. Sobering up services, where care/support could be provided, were considered superior to punitive responses in cases of public drunkenness.

Finally, addressing broader social determinants of health, and tackling stigma and racism, were viewed as important. As part of these broader efforts, people also suggested that designing inclusive, comfortable, and welcoming public spaces for marginalised community members would be useful.

Conclusions and suggestions

Given typically negative experiences of the public drinking law (and its enforcement), the findings of this project indicate that marginalised people who drink in public in Yarra are supportive of repealing the law in favour of a health-based approach. Based on participants' ideas for appropriate ways of responding to public drinking and related issues, specific suggestion for consideration include:

Overall

1. Repeal the public drinking law to prevent potentially adverse social, cultural, legal and wellbeing impacts on marginalised community members. If the law remains in place, safeguards (e.g., sensitive and non-punitive enforcement approaches) would need to be bolstered so that marginalised community members are not unfairly targeted or impacted.
2. Similar to the Victorian Government, adopt a health-based approach to public drinking that is underpinned by values, such as care, compassion, respect, and cultural appropriateness.
3. Involve Aboriginal and Torres Strait Islander community members, as well as people who drink in public (and other stakeholders), as key partners in the design and implementation of the health-based approach.
4. Given limited awareness of the current public dinking law, clearly communicating any changes to the law or approach to public drinking will be important.

Responders

5. A variety of responders could usefully participate in a health-based approach, but community and outreach workers are particularly important, especially Aboriginal and Torres Strait Islander outreach and legal workers and those with a lived experience of public drinking.
6. If the police play a role in a health-based response the following would be useful to ensure care, compassion, respect, and cultural appropriateness:
    a. Continue to strengthen relationships between the Aboriginal and Torres Strait Islander community and the police in Yarra. This could be done through revitalising established mechanisms and fora for open communication, such as the Smith Street Working Group.
    b. Given the importance of local contextual factors, sensitivities, and issues, provide cultural awareness training to police that is Yarra specific.
    c. Provide community members access to Aboriginal and Torres Strait Islander legal aid workers to ensure rights are upheld.
7. Ideally all potential responders (e.g., outreach and community workers, paramedics, police) be offered training in responding to public drinking in a compassionate, respectful, and culturally appropriate way.

Responses

8. Consider establishing wet spaces (e.g., wet houses/zones) where people can engage in public drinking in a safe and supportive way. There may be a preference for outdoor wet spaces but further consultation on the specific design and configuration of spaces is needed.
9. Potentially as part of the state government's health-based approach to public drunkenness, consider implementing a sobering-up service for people who are intoxicated in Yarra.
10. Design inclusive, comfortable, and welcoming public spaces for and with marginalised community members.
11. Scale up investment and implementation of outreach and community workers to implement a health-based response, to engage with marginalised community members, and to facilitate access to health and social services and address needs.
    a. Aboriginal and Torres Strait Islander outreach workers and outreach workers with lived experience of public drinking are likely to be particularly important, although it is imperative that the wellbeing of outreach workers is supported.
    b. Food vans and BBQs are also likely to be an important way of engaging marginalised community members.

12. Engage in community-wide anti-racism and stigma efforts in the general community and in responder groups to minimise the potential for stigmatising and judgemental encounters.
13. Address social determinants of health through housing, employment, welfare, health, and social policies. Addressing social determinants of health is likely to be important for marginalised people who engage in public drinking.

1. Introduction

Yarra Council updated its regulation of public drinking by adopting the Consumption of Liquor in Public Places Local Law 2019 in October 2019. The new local law will operate for up to two years, rather than the standard 10 years. During the two-year period, Council will be working to address issues raised by local Aboriginal and Torres Strait Islander communities, and explore opportunities for health-based response(s) to public drinking.

The new local law replaces the local law on consumption of liquor in public places – 'Local Law 8' – which has operated for the past 10 years. Similar to the previous law, the new local law prohibits the drinking of alcohol (and the carrying of alcohol in open containers) in public places within Yarra. Some public places, known as 'prescribed areas' are excluded from these rules. Drinking and carrying alcohol in open containers is allowed in these areas between 9.00am and 9.00pm. The Local Law also empowers Yarra Council to vary these rules at certain times and places to facilitate festivals and events.

There have been three past independent evaluations of Local Law 8 in Yarra between 2010 and 2014. These have involved a range of methods including observations, interviews, surveys, and focus groups with people who drink in public and other key stakeholders (e.g., residents, traders, police, service providers), and analysis of existing data on crime and alcohol-related incidents/ harms. As Table 2 illustrates, the findings from these evaluations have been mixed. However, there have been some relatively consistent findings (e.g., in at least two of the three past evaluations), including that: 1) residents tend to support the law; 2) awareness and understanding of the law in the community is poor; 3) the law is inconsistently enforced by police; 4) there is no evidence that the law reduced alcohol-related crime or harm; and 5) marginalised groups, such as Aboriginal and Torres Strait Islander drinkers, potentially experience adverse social, cultural, legal, economic, and health impacts as a result of the law.

Table 2: Summary of past evaluation findings

Findings	Pennay & Berends (2010)	Capire Consulting Group (2011)	Pennay et al. (2014)
Improved perceptions of safety among residents	Mixed	Limited	Yes
Improved perceptions of amenity	Mixed	Limited	Yes
Reduced visibility of street drinking	Yes	No	Mixed
Resident support	Yes	n/a	Yes
High awareness and understanding of the law	No	No	No
Inconsistent enforcement	Yes	Yes	Yes
Potentially negative impacts to marginalised groups (e.g., displacement, fines, decreased service access)	Yes	Limited	Yes
Reductions in alcohol-related crime or harm	n/a	No	No

The first community consultation since the three independent evaluations was led by Yarra Council in June and July 2019, garnering responses from more than 250 community members. Opinions on the Local Law were divergent: 30% were highly supportive, 37% were moderately supportive and 33% were not supportive. Notably, dissatisfaction was expressed from residents on both sides, with some calling for stronger/broader application of the local law, and others believing public drinking should not be an offence at all.

Following a redrafting of the proposed local law, formal submissions were invited from the community in August and September 2019. During this period more than 30 submissions were received with key issues raised on:

- The unfair impact on Aboriginal and Torres Strait Islander people and people facing disadvantage
- A misplaced focus on the consumption of alcohol instead of anti-social behaviour
- The need to exercise alternatives to law enforcement and address alcohol-related harms through community education and health promotion
- A conviction that a council should not be allowed to prohibit public drinking through local laws
- A belief that public drinking should be entirely prohibited and that permitting alcohol use in parks makes these less welcoming places
- A desire to restrict public drinking to only licensed venues and events
- A concern for the welfare of young children exposed to public drinking

To address these issues, Yarra Council has commissioned researchers from Monash University (in partnership with Turning Point and the Centre for Alcohol Policy Research at La Trobe University) to

undertake additional research to understand the views of, and impact on, 'marginalised drinkers', especially from the Aboriginal and Torres Strait Islander community.

2. Aims

This project aimed to explore the experiences and needs of people who drink in public spaces Yarra in order to inform Yarra council responses to public drinking. In particular, the project sought to foreground the voices of Aboriginal and Torres Strait Islander people and other marginalised street drinkers that congregate in hot spots in Yarra (Smith St, Atherton Gardens and North Richmond housing estate). Specifically, this project addressed the following research questions:

1. What are participants' experiences of public drinking?
2. How have participants been impacted by public drinking laws?
3. What do participants think are appropriate ways of responding to public drinking?

The project also invited suggestions for ways to meet the health and welfare needs of people who drink in public.

3. Methods

In order to address these questions, a qualitative approach involving interviews and focus groups was taken. Approval to undertake the evaluation was obtained from the Monash University Human Research and Ethics Committee (project ID: 229560). This project was guided by a steering committee containing local health and welfare service providers, Yarra City Council officers and Aboriginal Partnerships Officer, and representatives from Aboriginal and Torres Strait Islander services and organisations. The steering committee ensured that the project was carried out in a culturally appropriate manner in which Aboriginal and Torres Strait Islander people were active partners in the project.

3.1 Recruitment and sampling

We recruited 40 people to participate in the project who were aged 18 years or over and reported consuming alcohol at identified 'hot spots'. These included the activity centre of Collingwood (bounded by Gertrude and Johnston Streets) and shared open spaces within the footprint of the Office of Housing Estates of Fitzroy (Atherton Gardens) and North Richmond. Given the focus on exploring the experiences of 'marginalised' groups, other groups of people who may also engage in public drinking in other areas of Yarra were excluded. These include 'backpackers', tourists, people who attend venues in night-time entertainment precincts, people who attend sport or other events, and people who congregate in Edinburgh gardens and other parks in Yarra.

Consistent with established qualitative research practice, we attempted to recruit participants of different ages, genders, sexualities, cultural backgrounds, and individuals who have had different experiences (as per the above) in order to capture a wide range of people's perspectives.

People were invited to participate in the project using several established methods, including:

1. *Steering committee members*
   The researchers were assisted in developing contacts with drinkers through steering committee members. Steering committee members communicated information about the

project and established processes within the organisations and networks to invite interested individuals to contact researchers.

2. *The Australian Participating Service Users (APSU) email list*
   We distributed an invitation to participate in the project through the APSU email list. APSU members are people who use, or have utilised, alcohol and other drug treatment services.
3. *Social media and our own networks*
   We advertised the study through our organisational Twitter and Facebook channels and posted flyers at Turning Point services and networks, as well as legal services and other alcohol and other drug services.

Once participants contacted us, they were screened for eligibility and provided with more information about the study. Participants were also provided with the option to either participate in a focus group or an interview. In order to maximise recruitment and as a token of our appreciation, participants were reimbursed with a $50-100 supermarket voucher for taking part in the project.

3.2 Participants

As illustrated in Table 2, the average age was 42 years (range 22 to 68 years). One third (35%) of the sample were female, 63% were male, and one participant did not identify with binary gender categories. Consistent with the project's specific focus, 63% of the sample were Aboriginal and Torres Strait Islander. A total of 5% of participants identified as lesbian gay bisexual trans intersex or queer (LGBTIQ).

Half of the sample had not completed year 12, most (90%) were unemployed and at least half had experiences of past or current homelessness, which potentially indicates a level of marginalisation. Participants had been public drinking in Yarra for about 8 years on average and almost 70% were daily (or near daily) drinkers. Similarly, over half (54%) of participants reported accessing a service to get help for alcohol concerns. Almost all (91%) participants had contact with the police or law enforcement for public drinking, including having been fined (50%) or placed into custody for public drinking (50%). It was not clear, however, whether the latter related to public drinking or public drunkenness. Similar proportions of participants had reported having experienced contact with paramedics (45%) and being transported home (45%) because of public drinking.

Table 3: Participant characteristics (n=40)

Characteristic	Statistic
Sex: Female	35%
Average age	42 years (range 22 to 68 years)
LGBTIQ	5%
Born in Australia	95%
Aboriginal and/or Torres Strait Islander	63%
Highest level of education Grad certificate/Diploma/Bachelor degree Year 12 Year 11 or below	 32% 18% 50%
Employed	10%
Past or present experiences of homelessness	50%+
Average length of time public drinking in Yarra	8 years
Public drinking in Yarra daily/most-days	68%
Accessed a service to get help for alcohol concerns	54%
Experiences of responses to public drinking* Had contact with police/justice system for public drinking Placed in custody due to public drinking^ Fined for public drinking Contact with paramedics as a result of public drinking Transported home	 91% 50% 50% 45% 45%

+ Figure is likely to be an underestimate, as the data captured only includes people who explicitly mentioned experiences of homelessness during interviews. Others may have experienced homelessness but did not (wish to) disclose this.
* Participants were able to report multiple experiences.
^ Unclear whether participants responses relate to public drunkenness rather than public drinking.

3.3 Data collection

Due to restrictions related to the global novel coronavirus (COVID-19), interviews (n=20) were mainly conducted by research team members over the phone, with a few conducted in person. One focus group was conducted over the phone and the other was conducted in Richmond. These lasted approximately 40 minutes and included open-ended, semi-structured questions, developed and agreed on by the team and steering committee. The topics explored were: views and experiences of public drinking and public drinking laws (research questions 1-2), and suggestions for responses to public drinking (research question 3). Questions were predominantly about experiences prior to COVID-19. Prior to the commencement of the interviews and focus groups, researchers provided written and verbal information about the project, answered any questions that participants had, and obtained informed consent.

3.4 Data analysis

In order to ensure the quality of the data, the interviews and focus groups were audio-recorded and transcribed. The transcripts were imported into the NVivo qualitative data management software program and were analysed using thematic analysis. Common themes were identified and relationships and divergent experiences within and between themes were explored. Pseudonyms are

used when referring to participants. Ages are presented within an age range in order to further de-identify participants.

4. Findings

Three interconnected areas were explored: 1) Experiences of public drunkenness, 2) Views and impacts of the public drinking law, and 3) Suggestions and desires for appropriate ways of responding to public drinking. Several sub-themes were identified in relation to each of these main areas (see Table 4).

Table 4: Overview of themes

1. Experiences of public drinking	**2. Views and impacts of the public drinking law**	**3. Suggestions for appropriate ways of responding**
1.1 Context of public drinking	2.1 Awareness of the public drinking law	3.1 Health-based response as the preferred approach
1.2 Positive aspects of public drinking a) Pleasure and social connection	2.2 Experiences of the public drinking law	3.2 Preferred responders a) Outreach and community workers b) Paramedics c) Police d) Aboriginal and Torres Strait Islander legal aid workers
1.3 Negative aspects of public drinking a) Health harms b) Exposure to violence c) Experiences of stigma	2.3 The law unfairly targets marginalised groups	3.3 Preferred services and responses a) Wet houses b) Sobering up services c) Public space design d) Outreach services
	2.4 The law is ineffective	3.4 Preferred broader responses to public drinking a) Access to health and social services b) Emergency services and outreach worker training c) Alcohol sales d) Equity for all
	2.5 Repealing the law	

4.1 Experiences of public drinking

Participants discussed diverse experiences related to public drinking. We discuss three common sub-themes related to this, including: 1) context of public drinking, 2) positive aspects of public drinking, and 3) negative aspects of public drinking.

4.1.1 Context of public drinking

A range of contextual factors and psychosocial circumstances shaped why, how, and where participants engaged in public drinking. These included a complex interplay of financial,

geographical, social, and cultural factors. For example, at the time of the interview, Jody (30 to 39 years old, Female) was unemployed and lived in public housing in Yarra. She described how she mainly consumed alcohol with friends at parks and on a main street in Yarra, and rarely drank in licensed venues for financial reasons:

> So, usually, say, me and friends will just sit like sometimes at a park or just on the street, just down [main street name removed], sitting on the corner there [shop name removed]…, and we'll just sit there and have a tin together. So yeah, just stuff like that. […] Sometimes there's a little bar [suburb name in Yarra removed], that I'll sit at, with a girlfriend.

Some participants, whilst not living in Yarra, regularly transited through Yarra for different practical reasons and would consume alcohol whilst there. These examples provided insights into how the consumption of alcohol within a daily drinking session may extend beyond the bounds of a local government area. For example, Ronnie (40 to 49 years old, did not identify with a gender) discussed how they had a complex set of medical concerns and how they would transit into Yarra to visit a medical practitioner, whilst also drinking alcohol in local parks:

> […] my GP's in [suburb name in Yarra removed], I'll go to see him, so often. […] I'd already have had two or three drinks on the tram from [suburb name outside Yarra removed] and would often then sit in one of the parks on the way from the tram to my doctor's [in Yarra] and sit in one of the parks and have another couple of drinks, pretty much until it was time for the doctors. […] I would generally walk around the streets of [suburb name in Yarra removed], in this situation, or go to - yeah, maybe if I don't have alcohol, go to the bottle shop and get alcohol […] Sometimes it does affect me and I get drunk and then, yes, that's different, but generally, I'm not drunk. […] I have a number of mental conditions, - and I talk to myself, for example. I've got Asperger's and high anxiety and depression, so the drinking doesn't really help any of those at all.

Whilst some people openly drank alcohol in public places in Yarra, others took steps to conceal their alcohol consumption when drinking in public. Bill (40 to 49 years old, Male), who was homeless at the time of interview, spoke about how he would spend each day walking through different parts of Yarra, and conceal his alcohol consumption when in places visible to the general public. When in parks (e.g., near public housing flats), Bill would often drink with different groups including groups of Aboriginal and Torres Strait Islander and other cultural groups, however, that group activity had been made more difficult with COVID-19 restrictions:

> I generally have to hide it. So, I have a, I've got an army-issued, you know one of these canteens? With a screw-top lid and I, yeah, transfer the alcohol into that, so as to hide it, so people can't see or know what I'm drinking. Because otherwise I feel that I'll get arrested if I'm drinking wine from a bottle or something like that. […] As long as I hide it, I seem to be okay. […] Just mostly white wine, like sav-blanc. Yeah, that's all that I drink. […] I try to avoid the Police seeing it or smelling it on me and stuff like that. I don't attract attention to myself. But yeah, so a typical day would just be drinking in the morning, afternoon then evening, and by the evening I've probably left the Yarra area just to go sleep in the suburbs.

The context and experiences of drinking in public for Aboriginal and Torres Strait Islander participants varied. For a few participants, the practice of public drinking was only occasional, such as having a drink whilst catching up with friends and family (as we elaborate on in the next section).

Bronwyn (50 to 59 years old, Female, Aboriginal and Torres Strait Islander) elaborated on how she would interact with Aboriginal and Torres Strait Islander friends and family on a main street in Yarra:

> Just wanted to catch up with everybody and find out what they've been up to and see what the goss is, and get all the goss and stuff and have a 'charge' with them and then get on my own way and do my own thing.

In another account, John (30 to 39 years old, Male, Aboriginal and Torres Strait Islander), described how he drank in bars, or in public on the ways to bars in Yarra. He spoke about how being Aboriginal and Torres Strait Islander meant that he would have to be strategic about drinking, and being able to get home quickly, in the wider context of a fear of police treatment:

> Mainly the experiences with public drinking is when I was growing up […] I was lucky to be told at a young age to be aware of where you are and where you drink. So, when I did drink, when I was younger, I did it in a safe place. Because I was always kind of a bit scared of the police. So, when it came to actually drinking in public, I kind of was very careful with it. I'd only drink in public if - it'd have to be close to somewhere that I knew that I could just go straight home or get in a cab or something like that, because, yeah - especially in Victoria…it can be a bit daunting at times. […] So, I saw a lot of people get arrested, so I was - personally, I was pretty good at staying away from the police, but - yeah.

For other Aboriginal and Torres Strait Islander participants, many of whom were experiencing psychosocial concerns (including other drug use, mental health concerns, and homelessness), drinking in public places in Yarra was a necessity and the only available setting to consume alcohol. For instance, many participants were in contact with outreach services and mentioned being homeless or sleeping rough, previous and ongoing criminal justice issues, post-traumatic issues flowing from institutionalised discrimination (e.g., the stolen generation), and reported an absence of a phone, access to food, and place to stay. Some participants alluded to polysubstance use, and mentioned having been to the medically supervised injecting room, while others reported or were observed to have injecting paraphernalia, along with different types of alcohol, in their possession. Other participants indicated that they had previously been in treatment for alcohol and/or other drug issues.

4.1.2 Positive aspects of public drinking

Amidst the often-challenging life circumstances and contexts described above, public drinking was a valued practice that afforded various opportunities. Indeed, participants reported several positive aspects of public drinking, especially in relation to pleasure and social connection.

Pleasure and social connection

Some participants discussed how it was pleasurable to drink in open spaces in public and to connect with friends and family and the environment. For example, for Jody (30 to 39 years old, Female), consuming alcohol in public spaces involved "getting a bit of sun and being with mates." In another account, John (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) reflected on how the Parkies mob had:

> Figured where it was safe for them to drink - was the park – […] they could do it out in public; and it was fairly nice out in the breeze.

In a focus group, an Aboriginal and Torres Strait Islander female participant described public drinking as: "It's a meeting place […] it's like a family […] we feel free!"

In the context of not feeling comfortable to drink in other venues or being constrained by life circumstances, socio-historical factors and marginalisation, the ability to temporarily escape such constraints and "feel free" through public drinking was considered important. Similarly, many participants discussed how drinking in public places in Yarra was a valued social practice. Drinking in public places was a way to socialise and also for some to reduce a sense of loneliness. For example, as Kon (30 to 39 years old, Male) stated:

> I was relatively isolated due to my drinking and just being out in public meeting new people and, yeah – talking rubbish most of the time but it was, yeah, nice to just be around people, I guess.

Jody (30 to 39 years old, Female) expressed the view that she often felt less judged by people she drank in public with, compared with other community members, and they formed an important part of her social group:

> They're not snobby people. They're just - I don't know, they're just carefree and they're just nice people to be around sometimes.

As Kon and Jody's accounts illustrate, public drinking affords valued opportunities for non-judgemental social interaction and connection that was not always available in their lives and encounters in the broader community.

While not integral to community connection, some participants viewed public drinking places as playing a role sometimes. As Kate (40 to 49 years old, Female) explained, public places where people could drink afforded a "community spirit type of thing". Further, Kate described how public drinking sites allowed her to find people that she was concerned about, in order to offer them support and/or care, or to check in about their welfare. When Kate wanted to find friends including members of the Aboriginal and Torres Strait Islander community, she would walk around drinking hotspot areas as:

> No one's heard from 'blah blah' for a while, I'm going to go, and hunt them out. So, we're going to walk around those areas where that person could possibly be, or maybe find someone that knows them. Just checking on people's welfare.

Similarly, and especially for Aboriginal and Torres Strait Islander participants, drinking in public places played a role was a way to reaffirm social ties. For example, for Ken (60 to 69 years old, Male, Aboriginal and Torres Strait Islander), public drinking was a friendship affirming practice, and allowed familial exchange and communication to take place:

> People [*drink in public*] because of friendship, socialising, or catching up with family. […] I'd always go to the park where people were drinking, if I wanted to find somebody, one of my relatives or something. Yeah, it was just a practice, safety in numbers sort of thing.

Furthermore, participants reported that the maintenance and availability of public places to drink was important to facilitate valued social interactions. Bronwyn (50 to 59 years old, Female, Aboriginal and Torres Strait Islander) reflected on a time decades ago when Aboriginal and Torres Strait Islander people and other people who lived in the local public housing flats were able to socialise in licensed venues, such as the Builders Arms. However, with the gentrification of the local area, the cost of drinking in licensed venues was now prohibitive for many. For Bronwyn, this was frustrating as she wondered whether the general public "think that people in the 20 story flats don't want to socialise, drink with friends, do things that people consider to be normal, if you're poor?" In view of licensed

venues being out of reach of many, for Bronwyn, it was vital to maintain public drinking areas in order that practices of social exchange could continue. As she stated:

> You're part of each other's circle so you want to talk to each other about who is doing what, how everybody is, is so-and-so okay? I heard so-and-so got in a bit of trouble, just all that sort of stuff.

In sum, a range of positive aspects related to public drinking were articulated, especially in relation to pleasure and social connection. However, as discussed below, participants also recalled a range of negative aspects related to public drinking.

4.1.3 Negative aspects of public drinking

Many participants identified negative aspects related to public drinking, including health harms, exposure to violence, and experiences of stigma.

Health harms

Participants identified a range of health harms related to their alcohol use, and drinking in public specifically. Some participants discussed these health harms in the context of being a self-described "alcoholic" (e.g., Bill, 42 years old, Male). However, whether it was useful to view alcohol consumption through the medical lens of 'alcoholism', was questioned by some participants. For example, John (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) discussed his relationship with the Parkies mob. On the one hand, there was a level of 'alcoholism' within the group, on the other, drinking was "the way that [*Parkies*] did things. I never saw any trouble with them, to be honest."

A common health harm reported due to excessive drinking was hospitalisation after becoming intoxicated, passing out, or blacking out. Michaela (40 to 49 years old, Female, Aboriginal and Torres Strait Islander) spoke about her experience of being hospitalised after drinking in public in Yarra:

> Basically, what would happen is that I'd starting drinking, and then I'd end up [in hospital] and I'd run away, and I'd keep drinking, and then I don't know what happened after that. […] because I can't stop when I pick up. So, that's why I go to [*Alcoholics Anonymous*], […] well, to be honest with you I'm pretty sure 99.9 per cent of people drinking in public places are actually born with the disease of alcoholism, and that's why they're doing it. They're not doing it to break the law, they're just doing it because they can't stop drinking.

Michaela not only detailed her current attempts at abstinence from alcohol through Alcoholics Anonymous, but also suggested that most public drinkers have a lack of volition when it comes to stopping drinking.

In contrast, other Aboriginal and Torres Strait Islander participants stated that many of their friends and family were experienced in self-regulating drinking. For example, as Ken (60 to 69 years old, Male, Aboriginal and Torres Strait Islander) stated, there are: "some people out in a group that might play up but they also can self-control, there's self-regulation there." In a focus group exchange, a number of participants also discussed how they could control their drinking:

> Male 1: We don't get…drunk and lose control.
>
> Male 2: You can tell we've all had a bit to drink, but we are not violent, we are not brain dead! Maybe brain damaged, but not… brain dead!

The social nature of a public drinking space, and the ways in which different individuals helped one another and interacted with each other, had the potential to foster support and self-regulation to reduce health harms from alcohol.

Exposure to violence

Another negative aspect of public drinking was exposure to, witnessing, or personal experience of violent behaviour. For example, Jody (30 to 39 years old, Female) recalled how there was the potential for sexualised violence in the form of men taking advantage of women affected by alcohol. She stated:

> Yeah, because of the predators. There are a lot of them. Yeah, they just need to be protected […] There's a lot of men. They just go out looking for girls that are intoxicated and they just completely take advantage of them. […] I've seen it, I've lived it. So, I know first-hand.

Many participants spoke about how there was a risk of violence or fighting during a heavy drinking session in public, which could occur between any individuals or groups that consumed alcohol in public places. For example, Bill (40 to 49 years old, Male) spoke of his experience of threats of violence while drinking in public. Referencing the potential for the intersection of violence and cultural conflict between marginalised groups, Bill discussed a recent interaction with a group of people from a different cultural background:

> But yeah, they'll [different group] either steal [alcohol] from you or they'll shout you it, it depends on the day and the mood. Yeah. […] on a good day they'll often just shout me. But on the worst day, they threatened to beat up a friend of mine that was with me, who was drinking with me, because he was drinking my alcohol. I don't know, they just didn't like him, so they threatened to beat him up and he couldn't handle it and he walked off and I followed him. But on the same interaction, they were offering to shout me alcohol because I got along with them.

During the focus group with mostly Aboriginal and Torres Strait Islander participants, it was reported that Smith Street, Collingwood, and surrounding parks had previously provided a safe place to consume alcohol. However, with recent conflict with other cultural groups, Smith Street had felt less safe, and many of the focus group participants reported having moved away from that area due to threats of violence. Interactions between different cultural groups had recently emerged as a safety issue, and one that many focus group participants felt the local police had little control over. The following focus group interaction involving Aboriginal and Torres Strait Islander participants captured this intercultural conflict:

> Male 1: We used to drink […]
>
> Female 1: On Smith St […] in the park in North Fitzroy […] [*overspeaking*]
>
> Male 1: We got pushed down by police, and then, and then these [*young predominantly male group from another cultural background*]… that were sitting over there drinking [*referring to Smith St*], they never got moved on, cos the coppers were too scared of them! […] know what I mean!
>
> Male 3: [The other cultural group] wanted to kill us!
>
> Male 1: They made us move.

In this exchange, we observe that the threat of violence based on intercultural conflict, along with a perceived inability of police to manage the threat, had led to some Aboriginal and Torres Strait Islander people being displaced to another area within Yarra.

Experiences of stigma

Finally, many participants reported that a negative aspect of public drinking was feelings of being judged or discriminated against by some members of the public in Yarra, as well as by some police. Although it was generally not clear exactly when experiences of stigma occurred, or whether police practices/attitudes had changed over time, these experiences were reported to occur amidst personal histories of discrimination and racism for Aboriginal and Torres Strait Islander participants. Such experiences existed along a spectrum and some participants mentioned police encounters that did not feel stigmatising or unpleasant. Similarly, Kon (30 to 39 years old, Male) thought interactions with the general public were not particularly negative: "I recall probably getting a few looks but nothing more than that."

However, for many Aboriginal and Torres Strait Islander participants and homeless participants in particular, the feelings of being different and experiencing stigma were more acute. For example, Jody (30 to 39 years old, Female) spoke about how it was not uncommon to experience judgment from other members of the public within Yarra. Jody described an interaction where a person who engaged in public drinking asked a member of the general public for small change, which was met with judgment and discrimination:

> […] they've asked someone for spare change, and somebody standing around just said "fuck off" or something like that, "get a job you fucking worthless drunk!" and all of that. People talk like that…

Feelings of being constantly judged could also lead to negative emotions and stress. For example, Jason (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) discussed how when he would wake up in public with a drink beside him, and plan his day, he found that:

> People who just stare at you and I don't know, yeah, all that kinda, you know, what do you call it um, what's that word I'm looking for […] Paranoia, yeah, that kicks in a bit […] yeah just people staring at you, judgmental people pretty much […] All the time, yeah, all the time.

Jason's account exemplifies how experiences of stigma can lead to distress, in his situation, paranoia. Given he was often sleeping rough, it was difficult to escape the gaze and judgment of the general public, especially when drinking in public places in Yarra.

4.2 Views and impacts of the public drinking law

Participants discussed a range of views and impacts of public drinking laws. We discuss five common sub-themes related to this, including: 1) awareness of the public drinking law, 2) experiences of the public drinking law, 3) the law unfairly targeting marginalised groups, 4) the laws being ineffective, and 5) repealing the law.

4.2.1 Awareness of the public drinking law

Participants varied in their awareness and level of understanding of the public drinking law in Yarra. A few participants had a particularly high level of knowledge regarding the public drinking law and specifically referenced how "Local Law 8" would often "create a lot of anxiety" (Ken, 60-69 years old, Aboriginal and Torres Strait Islander) in the community with regards to police treatment.

However, most participants had limited understanding of the public drinking law, with a few unaware that it existed. For example, as Bronwyn (50 to 59 years old, Female, Aboriginal and Torres Strait Islander) stated:

> My understanding of the laws was that we weren't allowed to drink in public. Or strongly discouraged […] I've got no real understanding of the way the law works.

Similarly, other participants were uncertain about how the public drinking law is enforced, as James' (50 to 59 years old, Male) account illustrates:

> I don't know whether they're enforceable or not by law, mostly likely they are, if the council's approved them.

A common concern raised about the public drinking law, was its complexity, especially in the context of other laws. For example, a number of participants discussed how they might drink in a licensed venue, then buy takeaway alcohol and drink it on public transport, before going to a park in Yarra to continue drinking. They described how it was challenging to understand when, where, and at what time, they were legally able to drink in public, or when they may be in breach of, the public drinking law. There was also clearly some confusion and conflation between public drinking and public drunkenness laws, with participants reporting spending time in custody for public drinking (for which the maximum penalty is an infringement notice).

4.2.2 Experiences of the public drinking law

Participants reported a range of different public drinking experiences with regards to police. As stated earlier, most participants had experienced contact with law enforcement officers for public drinking. However, a few participants described how police would pay little attention to their drinking, and they would have little contact with police. For example, James (50 to 59 years old, Male), who reflected on a number of decades of rough sleeping and public drinking both in Yarra and other areas in Melbourne, stated: "usually, [*police*] just drive on past […] for the best part, […] they just didn't pay any notice […] if you were playing up, they'd probably write you up."

Other participants reported different police experiences which resulted in a range of outcomes. Some participants had received tip out requests from police after being found in possession of an open drink. This was often experienced as an annoyance, as it could be difficult to purchase more alcohol given participants' financial situation. Others had been given 'move on' orders. Many participants had been given fines for breaching the public drinking law, whilst others had been arrested for the related issue of public drunkenness and taken to a watch house to sober up.

Some participants described how they had either observed, or experienced themselves, what they perceived as an overly aggressive police response in regards to breaching the public drinking law. This was especially the case for Aboriginal and Torres Strait Islander participants. For example, Ken (60-69 years old, male, Aboriginal and Torres Strait Islander) recalled a previous arrest by police after being talked to about public drinking, which escalated into an arrest for another offence:

> [*I was*] chucked in the back of the divvy van and then they'd give you a rough arrive and you'd get thrown around the back, split your webbing, or something trying to hold on inside. All badly bruised by the time you got to the cop shop.

As we discuss in the next section, many participants viewed that the decision about whether to enforce public drinking laws, was often perceived to be arbitrary, and unfair for marginalised groups, including Aboriginal and Torres Strait Islander people.

4.2.3 The law unfairly targets marginalised groups

Many participants expressed the view that they felt public drinking laws were not always enforced equitably by police. Although many Aboriginal and Torres Strait Islander participants were sympathetic and understanding of the importance of police duties, there was a common view that Aboriginal and Torres Strait Islander people were at times racially targeted under the public drinking law. It was not always clear whether participants were referring to current or past experiences (or experiences exclusively in Yarra) and whether the situation had changed over time. John (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) explained:

> I know that there's a lot of nice police out there […] but I've had some bad experiences where they're - they see us [Aboriginal and Torres Strait Islander people drinking in public], and it's kind of like we're the nail that's kind of … gets hammered […] other people are throwing up on the middle of the street and mucking around, yelling and stuff, but you see a group of people that have a dark complexion and [*the police*] seem to get distracted […] I think there was racial profiling going on, with probably the Indigenous mob, maybe the [cultural group name removed].

Similarly, Riley (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) spoke about experiences where he felt Aboriginal and Torres Strait Islander people were unfairly targeted under public drinking laws compared with other groups:

> I mean, you see a bunch of white blokes and bunch of [cultural group name removed] drinking, you know, you don't see the cops going up to them, harassing them, or asking for their name or anything like that, they come straight to us, cause in their eyes, we're nothing but violent when we're drunk.

Bronwyn (50 to 59 years old, Female, Aboriginal and Torres Strait Islander) also felt that public drinking laws are not implemented fairly. She stated that Aboriginal and Torres Strait Islander people are potentially targeted by police under the public drinking law using an "arbitrary" enforcement style that gave police "too much freedom to exercise the law in terms of how they feel, not as in terms of how the law was written."

There was also a perception that the public drinking law could be drawn upon by other law enforcement personnel to target Aboriginal and Torres Strait Islander people. For example, during a focus group, a male participant described how he had recently walked towards a train station in Yarra. The participant described how he was carrying a can of soft drink. He was approached by two protective service officers who asked "what's in the can?" The participant responded "can't you fucken read?" and the event led to a criminal matter (*details redacted for privacy*), which the participant thought had come to that point of escalation due to his Aboriginality and the exercising of public drinking laws. Thus, whilst other members of the public freely walked through the station, for this participant, the public drinking law was used in a way that made him feel harassed and unfairly targeted.

In addition to unfairly targeting Aboriginal and Torres Strait Islander people, other participants felt that the enforcement of the public drinking law tended to be unequitable for people experiencing homelessness. Kate (40 to 49 years old, Female) recalled how in her experience, when people

experiencing homelessness were drinking in the same area as other people, homeless people were often singled out by police when enforcing the public drinking laws:

> It's a way of targeting particularly vulnerable people. Particularly people who are homeless. I mean, for god's sake. I just think it's a highly punitive way of dealing with human beings.

In addition to feeling that the public drinking law is unfair for marginalised groups, many participants considered the public drinking law to be ineffective in reducing public drinking and the harms associated with it.

4.2.4 The law is ineffective

Many participants thought that for people who consumed alcohol in public places and were experiencing complex psychosocial concerns (e.g., homelessness), being asked to tip out alcohol, or being issued a fine, would not be effective in changing drinking behaviours. As James (50 to 59 years old, Male) stated about fines for breaching local drinking laws:

> I just wouldn't pay it. I just wouldn't pay it, say, what are you going to do, lock me up? Yeah, I wouldn't pay it. It wouldn't really matter to me, to be honest.

Ken (60 to 69 years old, Male, Aboriginal and Torres Strait Islander) discussed how for people experiencing complex drinking concerns, being issued fines under a punitive response failed to address the underlying causes of public drinking practices: "they just kept going on the merry-go-round […] because they can't pay the fines and they're not going to pay them."

Ken's use of the "merry-go-round" metaphor highlights how a punitive approach (such as issuing fines) was considered to be a revolving platform where drinking and related concerns were not addressed. Rather than an approach that was perceived to be unfair, ineffective, and punitive, Ken and other participants advocated for a wider health-based response to public drinking (which we address in sub-section 4.3.1).

4.2.5 Repealing the law

Whilst not all, most participants felt that the public drinking law was potentially harmful and unnecessary and that it should be repealed. For example, as Jason (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) stated: "Well, yeah I reckon [the law should be got rid of], if we don't start trouble, which we don't, yeah I reckon it would be a good idea."

Also advocating for the repeal of the law, Ronnie (40 to 49 years old, did not identify with a gender) discussed how there were other legal instruments police could invoke to deal with any anti-social behaviour related to public drinking generally:

> If you've had too much to drink, and you're walking down the street abusing people, you'll get picked up, rightfully […] picked up because of that. Disorderly conduct, under a health order or something, so yeah, […] I think it's the way I think about it […] you'd want to remove the law that said it was illegal to drink in public.

Although most participants viewed public drinking laws as unnecessary and/or potentially harmful, a few held ambivalent views about the utility of public drinking laws. These participants tended to support public drinking bans, as they viewed other people's public drinking as potentially affecting civic life. However, they acknowledged that for themselves, public drinking bans had little effect on their own drinking behaviour. This was typified in Kon's (30 to 39 years old, Male) account:

> Yeah, personally, I'm supportive of drinking bans in public. Yeah, I think it's – gives off a bad impression when people are getting drunk in public […] [*however, for me*] personally, I was an alcoholic and nothing ever got in the way of me having a drink really.

Furthermore, some participants were not particularly concerned about whether public drinking laws are repealed. Rather, these participants were more interested in an equitable, fair, and just approach to addressing public drinking, and treatment by the state. In the words of a male Aboriginal and Torres Strait Islander focus group participant: "It's one law for all! […] Respect and courtesy goes a long way."

4.3 Suggestions for appropriate ways of responding

As well as being supportive of repealing the law, participants communicated several desires and suggestions in relation to appropriate ways of responding to public drinking and related needs. In this section, we present participants' views about their preferred approach and responses to public drinking, preferred responders and services, and views about addressing wider social determinants of health.

4.3.1 Health-based response as the preferred approach

Most participants preferred a health-based approach to responding to public drinking, and to address drinking-related concerns. This stemmed from the widely held belief that public drinking is not a moral or criminal justice issue, but rather, a health and social issue, especially when harms to self or others emerge from drinking. For example, describing how a health-based approach is more favourable than a punitive response to public drinking, Ken (60 to 69 years old, Male, Aboriginal and Torres Strait Islander) stated:

> I think when people become alcoholics that they shouldn't be punished. I think they should be somehow engaged, because then it becomes that health problem, and if they are in a better place it's not going to be so problematic, you know?

In another account, John (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) explained how investing in a health-based approach to public drinking is more desirable that investing in policing:

> I'm more a fan of putting money […] in the hands of people that are health workers and that are social workers, instead of putting the money into police hands, so they have to work extra to go out and get people for crimes that I don't think are really that important.

Some participants raised the idea that a health-based response should aim to target those who need or want help, rather than all people who might drink in public places. There was a sense that if people choose to drink in public, and are not harming other people, they should be free to drink in public. For instance, Jody (30 to 39 years old, Female) explained:

> I guess the people that need help, offer help, and if there are people that don't need help, and don't want help, and they're not hurting anyone, just who gives a shit? […] Just leave them be. They're not hurting anyone. Bugger off, do you know what I mean?

As illustrated in participants' accounts, respecting people and their desires/needs and treating people with dignity, care, and compassion were considered important elements of a health-based, or any other approach, to public drinking. Although many participants favoured a health-based approach to

public drinking, there were differing views on how a health-based response in Yarra might be designed and implemented, which we discuss in the following sections.

4.3.2 Preferred responders

Participants proposed a range of preferred responders who they thought could be useful in a health-based response to public drinking. Rather than one type of responder being able to respond to any and every situation, participants drew attention to the useful role that various responders (and teams of responders) could play in different situations. They also indicated that irrespective of the type of responder, qualities like empathy, care, respect, and lived experience were important.

Outreach and community workers

Outreach workers were identified as playing an important role in responding to the concerns of people who consumed alcohol in public places in Yarra. For example, Ken (60 to 69 years old, Male, Aboriginal and Torres Strait Islander) stated "I hope they start having a functioning outreach worker again in the inner city anyway, an Indigenous one anyway at least." Consistent with Ken's account, whilst many participants identified that outreach teams should consist of people from different backgrounds, it was a common view that an outreach team would be of particular benefit to drinkers if they included workers who were Aboriginal and Torres Strait Islander.

Jason (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) stated that outreach workers would provide him with "someone to talk to about my problems, you know" in a non-judgmental way. Participants also thought that outreach workers with a lived experience of public drinking would be an asset and enable better engagement with people who drank in public places. For example, Kate (40 to 49 years old, Female) explained:

> What I'm thinking about is that lived experience model of doing things. Maybe you can have [*workers*] who want to go out and use their experience, strength and hope, to go and have a chat to someone who's in a bad headspace out in public, having a drink or something. You have someone who's got a lived experience, who's had some formal training, and they get a call out, and say, "look, you know, someone needs some help. Someone needs to have a yarn with someone."

Other participants added that outreach workers could help connect or refer them with services (e.g., alcohol and other drug treatment services). To enable this, participants felt that outreach workers would benefit by having alcohol and other drug training or education.

Paramedics

Where there was an accident or medical emergency, some participants discussed the role of paramedics in responding to public drinking. For example, when asked about who he thought would be effective first responders, Bill (40 to 49 years old, Male) stated:

> Probably the ambulance. They're good, because they're not aggressive. The police in the city, in the Yarra region can be very aggressive and brutal, which I've experienced – not every one of them but some of them. I would imagine the ambulance, they're more caring, they're concerned about your health and your wellbeing. A social worker or an ambulance seems like the best first responder.

Bill's account referenced his past dealings with some police officers which included overly aggressive responses, and how, in contrast, paramedics could potentially provide support and care for people with drinking concerns.

Police

Importantly, although most participants rejected a law and order response to public drinking, the role that police might play in different circumstances was identified as a potentially important part of a health-based response. In managing incidents or call outs, where there was a risk of violence or physical harm, police were viewed as important to help protect the safety of public drinkers, community members, health workers, outreach workers, and/or paramedic responders. Discussing the role of inter-service responses, Terry (50 to 59 years old, Female, Aboriginal and Torres Strait Islander) stated it was important "both, you know, I'd say have both, health worker and the um police [to work together]."

Furthermore, as part of a health-based response, Michaela (40 to 49 years old, Female, Aboriginal and Torres Strait Islander) thought that police might be important in assisting in the identification and management of family violence that may (or may not) be linked to public drinking. She discussed how in a past family violence related matter, a female police officer had made enquiries as to her wellbeing and physical safety based on the officer's observations. The officer's intervention was appreciated by Michaela and she viewed police as important in preventing future family violence.

In order to promote an effective police response and better relationships between police and the Aboriginal and Torres Strait Islander community in Yarra, one participant cited the importance of strengthening local partnerships, underpinned by open communication. Ken (60 to 69 years old, Male, Aboriginal and Torres Strait Islander) stated how he felt that in the past, there had been stronger working relationships between police and community, in comparison to the present. Aboriginal and Torres Strait Islander community leaders could go down to the station at "any time and talk to [the officer], when [the officer] was available", however, that may have deteriorated as Ken had been "hearing not good stories" about current police/community relations.

Aboriginal and Torres Strait Islander legal aid workers

Although the role of police was viewed as necessary in certain instances, many participants felt that there should be oversight of police conduct generally. In particular, when police were involved with Aboriginal and Torres Strait Islander people (e.g., after making an arrest), a number of participants communicated that it was important that a legal aid worker attended to advise on, and protect, Aboriginal and Torres Strait Islander people's rights. For example, Riley (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) stated, that in the event he was arrested, it was important that an Aboriginal legal aid worker was present to monitor and/or review police conduct:

> I would prefer an Aboriginal legal worker, legal aid worker yeah, to come and see me, talk to me, pick me up or whatever, whilst, well, whilst the police are there.

Thus, whilst outreach and community workers were viewed as important responders, participants also highlighted the role of paramedics, police, and Aboriginal and Torres Strait Islander legal aid workers when responding to public drinking. We now consider participants' views about how services might be designed to respond to public drinking.

4.3.3 Preferred services and responses

Participants identified a range of preferred services and responses, including wet houses, sobering up services, outreach services, food vans or barbeques, and public space design.

Wet houses

Wet houses are facilities which are designed to accommodate and support people who wish to drink alcohol in a safe space, but who may not feel comfortable, nor have the financial means, to drink in

venues or other places. Particularly relevant for people experiencing homelessness, wet houses allow people to drink and stay in a place where they are not required to stop drinking, whilst having different supports available if they desire them (e.g., food, shelter, linkage to services). Typically based on a harm-reduction philosophy, wet houses are gaining increasing prominence in North America but have rarely been implemented in Australia.

The concept of wet houses amongst participants was divisive: some supported the idea, whilst others were highly against the idea. Some participants thought that wet houses would be an effective option to support people who drink heavily/regularly and/or who have drinking concerns in Yarra. For example, Bill (40 to 49 years old, Male) drew an analogy between wet houses for people with alcohol concerns, and the medically supervised injecting room in North Richmond for people who inject drugs. He stated:

> When it comes to heroin, I use the safe injecting rooms, which have saved my life, they've brought me back to life there before, and if I did that in an alleyway or in a public toilet, I would have died. So maybe these wet spaces could be the answer. Where they can go drink, they're not going to get arrested, and they can also access services from the same site. So, they have a safe spot to drink, there's people that could possibly help them reduce or quit at the same time in the same spot. So, I reckon maybe that is the answer.

Another male Aboriginal and Torres Strait Islander participant who was part of the focus group agreed: "I mean they have the [*needle and syringe programme and other harm reduction services for drugs*]; us alcoholics need something too!"

Some participants had ideas about where wet houses could be built. Craig's (40 to 49 years old, Male) preferred site for a wet house was on Lennox Street, Richmond, behind the factories as he explained that he and his friends who drank were all there anyway, often daily.

However, other participants were strongly opposed to the idea of wet houses being implemented in Yarra. Ronnie (40 to 49 years old, did not identify with a gender) thought that wet houses would be patronising and stigmatising when someone entered a house designed for alcoholics, stating that they might elicit feelings of: "I'm scum. All those people are scum!" In other examples, James (50 to 59 years old, Male) and others viewed wet houses as dangerous, as they brought intoxicated people together in the same space: "You're looking for trouble if you're putting all these people in the same house together, you know what I mean? They're all half-cut drinking!" Phil (40 to 49 years old, Male) stated that he would not use a wet house, as drinking in public for him was a solitary activity, where he wanted to be on his own.

Sobering up services

Sobering up services aim to provide a safe, supportive environment where people can sober up from alcohol and other drug intoxication. Broadly speaking, for participants in this study, sobering up services were viewed as a better option for housing intoxicated individuals in comparison to the use of jail cells, which are sometimes used in cases of public drunkenness. For example, Kate (40 to 49 years old, Female) stated:

> I think [*a sobering up service would be*] great. I hadn't even thought about the possibility of something like that existing. So yeah, somewhere you could go and sober up in a safe environment. Safe from harm of yourself or another person. Yeah, so being taken somewhere safe, and perhaps then being given some further welfare, could be looked into, or assistance, or whatever. I think that's a great thing.

Jason (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) agreed and stated regarding sobering up services: "Yeah, yeah that sounds alright, yeah that sounds good, we're you're not locked up in a cell yeah, I'd rather that."

The main concern that a few participants raised about sobering up services, were that they were good in theory, however difficult to implement, especially with regards to managing intoxicated people. As Bronwyn (50 to 59 years old, Female, Aboriginal and Torres Strait Islander) stated:

> So, sobering up services sound really good but it's the sobering up process that's messy and how does one person sit there and control, say, look, you've got three drunks in for the night? They're not automatically just going to go to bed, behave themselves.

Bronwyn's concerns are like those made by some participants in relation to wet houses. While wet houses (as well as sobering up centres) are typically thought of as providing safe indoor spaces, many participants engaged in public drinking partially because they enjoyed being outdoors. Given this, they felt that providing outdoor wet spaces and improved public space design would be useful.

Public space design

There were a range of views raised about the importance of investing in the design of public spaces. A few participants discussed how well-designed public spaces could afford safer places in which to consume alcohol, where people who consumed alcohol could also access supports. Parks were identified as potentially offering safer drinking places, and some participants gave specific recommendations about how parks might be designed. In Bronwyn's (50 to 59 years old, Female, Aboriginal and Torres Strait Islander) account, she discussed how signage and outdoor amenities (e.g., an outdoor barbeque) could offer a safe place to drink and one that was welcoming for marginalised people:

> I think if you made it attractive for people to want to congregate at a certain spot and put up signage, "This is a drinking zone." Make it known so that people understand that this is a space that is allowable for public drinking. So if you don't want your kids to see it, don't bring them […] Put nice seats, put some covering, […] just make it attractive and make the signage so that people - instead of the big, "No, you cannot do this", say "Yes, this is a public space for drinking." […] Even have an outdoor barbeque or something so people feel like they're not just homeless or penniless or they're not part of the society, that they're valued […] Make it welcoming.

Similarly, as a male Aboriginal and Torres Strait Islander focus group participant stated: "just give us a place to drink, and there will be no problem!"

Outreach services

As previously discussed, many participants thought that outreach and community workers played an important role in responding to people who consumed alcohol in public. A few participants also mentioned considerations that may inform the design of outreach services. In addition to outreach workers walking through and meeting people in public, Phil (40 to 49 years old, Male) suggested that it may be helpful if community members were able to call a mobile outreach response team, which could then provide support to people who consume alcohol in public.

Furthermore, John (30 to 39 years old, Male, Aboriginal and Torres Strait Islander) expressed the view that there may be a place for mobile health ('mHealth') technology in connecting outreach workers with community, especially for younger community members.

> The technology's gotten better, so there needs to be better ways at being able to get in contact with community […] Maybe there's a different job title where it's social media outreach worker, where they go and - they're able to contact people through social medias or they're - or people that are more tech savvy […] But if you want to get a bigger net of people, I think you need to - we need to come up with more diverse jobs around mobile outreach to be able to outreach to people.

Another way participants thought outreach services could effectively engage community members was through food. Some participants discussed their preference for food/soup vans, and/or barbeques being available for people who consume alcohol in public places, who may be experiencing complex psychosocial concerns (e.g., financial disadvantage, homelessness). For example, James (50 to 59 years old, Male) reflected on his previous experience of these types of services in Yarra:

> They have a barbecue on Fridays down there, or they used to. I don't know if they do that anymore, and stuff like that for the people [*who drink*] on the street down there and that […] they had the soup vans and stuff like that, that was all good.

The main concern some participants raised was that in designing outreach services, the safety of outreach and community workers was paramount. For example, Michaela (40 to 49 years old, Female, Aboriginal and Torres Strait Islander) discussed how outreach and community workers needed to be protected from potential violence:

> So, I think that yes, it's great to use the outreach people, but I think you do have to have an understanding that if you are in a blackout, there could be violence. These people have to be protected from it.

4.3.4 Preferred broader responses to public drinking

Finally, participants raised a range of broader responses that may address public drinking in Yarra, and beyond. These included: access to health and social services, education about alcohol harms, police training, reducing alcohol sales, and equity for all.

Access to health and social services

The ability to access health and social services for alcohol and other drugs and mental health more broadly was considered important to address the needs of people who consume alcohol in public places. For example, James (50 to 59 years old, Male) reflected on how a historical closure of services had meant some of the people he knew with mental health needs could not access appropriate care:

> I don't know what you can do for [*people who drink in public places*], other than - they closed all the hospitals. What are you going to do? I don't know. They closed all the hospitals, though, the government. I had friends with fucking bad mental health problems.

Enhancing access to health and social services was thus considered important to ensure the potential mental health and wellbeing needs of people who drink in public are met. As discussed earlier, participants thought outreach workers and services could play an important role in facilitating access to services and addressing needs.

Emergency services and outreach worker training

Some participants thought that more broadly, service personnel responding to people who drink in public places would benefit from training in alcohol and other drugs. Through receiving specialised alcohol and other drug training, emergency services, including police and ambulance personnel, and

outreach workers, would be better equipped to respond to the needs of people with drinking concerns. As Michaela (40 to 49 years old, Female, Aboriginal and Torres Strait Islander) explained:

> Well, I suppose the police and the ambulance need more education. I think your idea of having outreach people there is a really good idea, but they should be trained in the AOD [alcohol and other drug] sector.

Alcohol sales

During the interviews, some participants expressed frustration that people who consumed alcohol were individually punished, when alcohol was a wider issue in society. Moreover, the introduction of alcohol, and harms associated with drinking alcohol, were viewed by some as an enduring consequence of colonisation. For example, Terry (50 to 59 years old, Female, Aboriginal and Torres Strait Islander) discussed:

> Because white man made the fucken grog, yeah, you know, that's why, that's why we [*have drinking concerns*], us black fellas.

Similarly, a male Aboriginal and Torres Strait Islander focus group participant stated: "If it wasn't for these fellas bringing the grog in the first place, we wouldn't be like this."

The view was raised, in particular by a number of Aboriginal and Torres Strait Islander participants, that reducing the availability of alcohol across society may assist in reducing harms associated with drinking. However, Ken (60 to 69 years old, Male, Aboriginal and Torres Strait Islander) warned against an over-simplistic view equating to "stop selling alcohol and that solves their [*referring to people with drinking concerns*] problem." Rather, Ken viewed that a reduction in alcohol sales across society would not only benefit people with drinking concerns, but more importantly have an effect at a societal level, especially given people with drinking concerns did not account for "the majority of assaults" or other harms across wider society.

Equity for all

Finally, some participants discussed that it was vital that social and legal policy, including public drinking reform, was equitable and inclusive for Aboriginal and Torres Strait Islander people. Highly critical of the way Aboriginal and Torres Strait Islander people experienced disproportionate harms from laws in Australia (including public drinking laws), Bronwyn (50 to 59 years old, Female, Aboriginal and Torres Strait Islander) drew attention to how via "every government since invasion, we've been penalised!" Some participants spoke about how future legal remedies for public drinking needed to be fair and just. More specifically, Bronwyn explained:

> I'm all about one law, one law for everybody […] One law! That's what we say in our culture, one law, one law for everybody.

In this way, Bronwyn's account foregrounded how regardless of an individual's cultural, economic, or social standing in society, a 'one law for all' approach could assist in protecting the rights of marginalised groups. Historically, drinking laws, and their enforcement, had disproportionately, negatively impacted marginalised groups.

5. Conclusion

Given typically negative experiences of the public drinking law (and its enforcement), the findings of this project indicate that marginalised people who drink in public in Yarra are supportive of repealing

the law in favour of a health-based approach. Based on participants' accounts and ideas for appropriate ways of responding to public drinking and related issues, specific suggestions for consideration include:

Overall

1. Repeal the public drinking law to prevent potentially adverse social, cultural, legal and wellbeing impacts on marginalised community members. If the law remains in place, safeguards (e.g., sensitive and non-punitive enforcement approaches) would need to be bolstered so that marginalised community members are not unfairly targeted or impacted.
2. Similar to the Victorian Government, adopt a health-based approach to public drinking that is underpinned by values, such as care, compassion, respect, and cultural appropriateness.
3. Involve Aboriginal and Torres Strait Islander community members, as well as people who drink in public (and other stakeholders), as key partners in the design and implementation of the health-based approach.
4. Given limited awareness of the current public dinking law, clearly communicating any changes to the law or approach to public drinking will be important.

Responders

5. A variety of responders could usefully participate in a health-based approach, but community and outreach workers are particularly important, especially Aboriginal and Torres Strait Islander outreach and legal workers and those with a lived experience of public drinking.
6. If the police play a role in a health-based response the following would be useful to ensure care, compassion, respect, and cultural appropriateness:
    a. Continue to strengthen relationships between the Aboriginal and Torres Strait Islander community and the police in Yarra. This could be done through revitalising established mechanisms and fora for open communication, such as the Smith Street Working Group.
    b. Given the importance of local contextual factors, sensitivities, and issues, provide cultural awareness training to police that is Yarra specific.
    c. Provide community members access to Aboriginal and Torres Strait Islander legal aid workers to ensure rights are upheld.
7. Ideally all potential responders (e.g., outreach and community workers, paramedics, police) be offered training in responding to public drinking in a compassionate, respectful, and culturally appropriate way.

Responses

8. Consider establishing wet spaces (e.g., wet houses/zones) where people can engage in public drinking in a safe and supportive way. There may be a preference for outdoor wet spaces but further consultation on the specific design and configuration of spaces is needed.
9. Potentially as part of the state government's health-based approach to public drunkenness, consider implementing a sobering-up service for people who are intoxicated in Yarra.
10. Design inclusive, comfortable, and welcoming public spaces for and with marginalised community members.
11. Scale up investment and implementation of outreach and community workers to implement a health-based response, to engage with marginalised community members, and to facilitate access to health and social services and address needs.

   a. Aboriginal and Torres Strait Islander outreach workers and outreach workers with lived experience of public drinking are likely to be particularly important, although it is imperative that the wellbeing of outreach workers is supported.
   b. Food vans and BBQs are also likely to be an important way of engaging marginalised community members.
12. Engage in community-wide anti-racism and stigma efforts in the general community and in responder groups to minimise the potential for stigmatising and judgemental encounters.
13. Address social determinants of health through housing, employment, welfare, health, and social policies. Addressing social determinants of health is likely to be important for marginalised people who engage in public drinking.

6. Acknowledgements

The research team would like to thank the participants who generously provided their time and valuable input. We are also indebted to the steering committee for their excellent and generous input and help in recruiting participants. In particular, we'd like to thank Aboriginal and Torres Strait Islander steering committee members and Uncle Colin Hunter specifically for his dedicated support. We would also like to thank the Association of Participating Service Users (and especially Jeff Gavin) and Lauren Deeth (from Turning Point) for their assistance with recruiting participants. We received funding from the City of Yarra to conduct this project, and would particularly like to thank Sarah Ernst and Daniel Ducrou from the City of Yarra for their generous and enduring support throughout the project. The Yarra City Council had no role in the data collection and analysis and preparation of the report. All views expressed belong to the researchers.

7. References

Capire Consulting Group 2011. Yarra City Council: Local Law 8 summer-time evaluation. Melbourne: Capire Consulting Group.

Pennay A & Berends L 2010. Evaluating the impact of local law 8 in the City of Yarra. Melbourne: Turning Point Alcohol and Drug Centre.

Pennay, A., Manton, E., Savic, M., Livingston, M., Matthews, S., & Lloyd, B. (2014). Prohibiting Public Drinking in an Urban Area: determining the impacts on police, the community and marginalised groups. Canberra: National Drug and Law Enforcement Research Fund (NDLERF).

Yarra City Council

Consumption of Liquor in Public Places

Local Law No. # of 2019

Adopted by Council on [DATE]
Effective [DATE] to [DATE]

CONSUMPTION OF LIQUOR IN PUBLIC PLACES LOCAL LAW No. # 2019

Part 1: General Provisions

1. Title

This Local Law is known as the Consumption of Liquor in Public Places Local Law No. # 2019.

2. Objective

The objectives of this Local Law are:

(a) to control the consumption and possession of Liquor in Public Places within the Municipal District, including where such consumption or possession may interfere with the amenity and enjoyment of Public Places or of land in the vicinity of Public Places;

(b) promoting the minimisation of alcohol-related harm by restricting the opportunity for unregulated public drinking within the Municipal District;

(c) supporting the effective governance of the Municipal District by promoting improved amenity of public spaces and discouraging anti-social behaviour;

(d) providing an effective means for police to deal with unregulated public drinking;

(e) improving the management of festivals and events to reduce risk to attendees, organisers, and Council; and

(f) the peace, order and good government of the Municipal District.

3. The power to make this Local Law

This Local Law is made pursuant to section 111 of the *Local Government Act* 1989.

4. Operation

This Local Law applies to all Public Places within the Municipal District of Council.

5. Commencement

This Local Law commences operation on the day after the date of the notice of the making of the Local Law is published in the Victorian Government Gazette.

6. Revocation of the Consumption of Alcohol in Public Places Local Law 2009

Upon the commencement of this Local Law, the Consumption of Alcohol in Public Places Local Law 2009 is revoked if it has not already been revoked.

7. Revocation of this Local Law

This Local Law will cease to operate on [DATE], unless sooner revoked.

8. Definitions

In this Local Law, unless inconsistent with the context:

"**Act**" means the *Local Government Act* 1989.

"**Authorised Officer**" means an Authorised Officer appointed by Council to be an Authorised Officer pursuant to section 224 of the Act, and includes a police officer referred to in section 224A of the Act.

"**Council**" means Yarra City Council.

"**Day Time Hours**" means 9.00 am to 8.59 pm.

"**Festival**" means a festival or other event declared by Council to be such in accordance with clause 11 of this Local Law.

"**Liquor**" has the same meaning as in the *Liquor Control Reform Act* 1998.

"**Municipal District**" means the district under the local government of Council.

"**Prescribed Area**" means an area declared by Council to be such in accordance with clause 16 of this Local Law.

"**Procedure and Protocol Manual**" means the Procedure and Protocol Manual authorised and published by Council from time to time and which is incorporated into this Local Law pursuant to section 112 of the Act.

"**Public Place**" means:
(a) a Road; and
(b) any land that is owned, managed or otherwise controlled by Council;
but does not include any authorised premises or licensed premises within the meaning of the *Liquor Control Reform Act* 1998.

"Road" has the same meaning as in the Act.

Part 2: General Conditions

9. Consumption or possession of Liquor

(1) Subject to clause 9(2), a person must not, in a Public Place:

(a) consume any Liquor; or
(b) possess or control any Liquor other than in a sealed container.

(2) Clause 9(1) does not apply to:

(a) Festivals as declared under Part 3; or
(b) Prescribed Areas as declared under Part 4.

10. Directions to the public

(1) If an Authorised Officer who observes a person contravening clause 9, the Authorised Officer may direct the person to:

(a) cease the consumption of Liquor;
(b) seal the container of Liquor; or
(c) dispose of the Liquor into a receptacle approved by the Authorised Officer.

(2) A person who fails to comply with a direction given in accordance with clause 10(1) is guilty of an offence.

Part 3: Festivals

11. Declaration of Festivals

Council may, of its own volition or upon application by any person, declare by a resolution of Council that a festival or public event is a Festival for the purpose of this Local Law.

12. Scope of declaration

A declaration made pursuant to clause 11 must specify:

(a) the time period over which such Festival is to be conducted;

(b) the area of the Municipal District within which the Festival is to be conducted, as may be described by words, plan, map, or a combination thereof;
(c) areas within the Festival that are designated as allowing responsible service of Liquor and the specified times during which Liquor may be served; and
(d) the name of the person or persons conducting the Festival.

13. Operation of declaration

A declaration made pursuant to clause 11 comes into operation upon publication of the declaration on Council's website.

14. Consumption or possession of Liquor at a Festival

A person must not in a Public Place during a Festival:
(a) consume any Liquor; or
(b) possess or control any Liquor other than in a sealed container;

other than in accordance with a declaration made by Council pursuant to clause 11.

15. Directions to the public

(1) If an Authorised Officer who observes a person contravening clause 14, the Authorised Officer may direct the person to:
(a) cease the consumption of Liquor;
(b) remove the Liquor from the festival;
(c) seal the container of Liquor;
(d) dispose of the Liquor into a receptacle approved by the Authorised Officer; or
(f) leave the Festival.

(2) A person who fails to comply with a direction given in accordance with clause 15(1) is guilty of an offence.

Part 4: Prescribed Areas

16. Declaration of Prescribed Areas

Council may, of its own volition or upon application by any person, declare by a resolution of Council an area within the Municipal District to be a Prescribed Area for the purposes of this Part.

17. Scope of declaration

(1) A declaration made pursuant to clause 16 must specify:
   (a) the area of the Municipal District declared to be a Prescribed Area, as may be described by words, plan, map, or a combination thereof; and
   (b) the hours to which the declaration applies.

(2) For the purpose of clause 16, the whole of the Municipal District may be a Prescribed Area.

18. Operation of declaration

A declaration made pursuant to clause 16 comes into operation upon the publication of the declaration on Council's website.

19. Consumption, possession, or control of Liquor in a Prescribed Area

(1) A person may in a Public Place within a Prescribed Area during Day Time Hours:

   (a) consume any Liquor;

   (b) possess or control Liquor other than in a sealed container.

(2) A person who consumes, possesses or controls Liquor within a Prescribed Area must not:

   (a) detrimentally affect the amenity of the area; or
   (b) behave in a way that is likely to detrimentally affect the amenity of the area;
   (c) possess or control Liquor, other than in a sealed container, or consume Liquor other than during Day Time Hours;
   (d) consume or possess or control Liquor other than in accordance with the declaration.

20. Directions to the public

(1) If an Authorised Officer who observes a person contravening clause 19, the Authorised Officer may direct the person to:
   (a) cease the consumption of Liquor;
   (b) seal the container of Liquor; or
   (c) dispose of the Liquor into a receptacle approved by the Authorised Officer.

(2) A person who fails to comply with a direction given in accordance with clause 20(1) is guilty of an offence.

Part 5: Administration and Enforcement

21. Consideration of applications

In considering an application for the declaration of a Festival, Council must have regard to the matters specified in the Procedure and Protocol Manual which relate to the declaration of a Festival.

22. Offences

A person who contravenes or fails to comply with any provision of this Local Law is guilty of an offence and is liable to a penalty of 20 units.

23. Infringement notices

(1) If an Authorised Officer reasonably believes that a person has committed an offence against this Local Law, the Authorised Officer may issue and serve, or caused to be served, on that person an infringement notice as an alternative to prosecution for an offence.

(2) The infringement notice must specify the penalty (shown as penalty units) specified for that offence in Schedule 1.

Schedule 1: Penalties

Clause	Offence	Penalty Unit
9(1)	Consume, possess or control Liquor in a Public Place	1
10(2)	Fail to comply with direction given in accordance with clause 10(1)	1
14	Consume, possess or control Liquor in an open container other than in accordance with a declaration	1
15(2)	Fail to comply with direction given in accordance with clause 15(1)	1
19(1)	Consume, possess or control Liquor other than in accordance with the declaration	1
19(2)	Consume, possess or control Liquor and did detrimentally affect the amenity of the area or behave in a way that is likely to detrimentally affect the amenity of the area	1
20(2)	Fail to comply with a direction given in accordance with clause 20(1)	1

Attachment 3 - Boroondara - Amenity Local Law

BOROONDARA
City of Harmony

CITY OF BOROONDARA

AMENITY LOCAL LAW

Date Resolved By Council:	9 December 2019
Commencement Date:	20 December 2019
Revocation Date:	20 December 2029
Responsible Directorate:	Chief Executive Office

Attachment 3 - Boroondara - Amenity Local Law

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Attachment 3 - Boroondara - Amenity Local Law

PART A – PRELIMINARY

1. Local Law

1.1. This Local Law is called the 'Boroondara City Council Amenity Local Law' and is made under Part 5 of the *Local Government Act* 1989.

2. Objectives

This objectives of this Local Law are to provide for:

2.1. the peace, order and good government of the **municipality**;

2.2. a safe and healthy environment so that the community can enjoy a quality of life that meets its expectations;

2.3. the safe and equitable use and enjoyment of **public places**;

2.4. the protection and enhancement of the amenity and environment of the **municipality**;

2.5. the fair and reasonable use and enjoyment of **private land**; and

2.6. the uniform and fair administration of this Local Law.

3. Commencement

This Local Law commences on the day following the notice of its making being published in the Victoria Government Gazette.

4. Revocation Date

This Local Law ceases to operate on a date that is 10 years after its commencement date unless revoked earlier by **Council**.

5. Application of Local Law

This Local Law applies throughout the **municipality** unless specifically stated otherwise.

6. Definitions

Some of the words or terms in this Local Law are defined. They are identified in **bold** and have the following meanings in this Local Law:

active travel – includes walking, cycling and any other mode of non-motorised transport of people;

advertising sign – means any placard, board, poster, banner, sign, card, structure or other similar device, whether portable or affixed or attached to any land, **building**, **vehicle**, trailer, person or other thing, used for the purpose of soliciting goods or services or displaying information but excludes any placard, board, poster, banner, sign, card or similar device attached to or on any **vehicle** or trailer:

(a) and used for the purpose of promoting a registered political party or a person's candidature or prospective candidature at an election; or

(b) if the use of the **vehicle** or trailer is ancillary to another use connected with activities being carried out on land (such as the use of a **vehicle** or trailer in connection with building or commercial activities being carried out on land);

alcohol – means a drink with an alcoholic content greater than 0.5% by volume at a temperature of 20 degrees Celsius;

alcohol-free zone – means an area prescribed by **Council** as an alcohol free zone;

animal – includes every species of quadruped and every species of bird (including, without limitation, poultry);

applicant – means a person who applies for a **permit** under this Local Law;

approved area – where used in clause 41 means either:

(a) the boundaries of the premises from which the **retailer** conducts his or her business; or

(b) such other area relating to the **retailer's** business that **Council** declares from time to time by resolution to be an approved area for the purposes of clause 41.

approved waste receptacle – means a household waste bin, a recycling waste bin, a green waste bin or other refuse receptacle supplied by, or on behalf of, **Council**, or otherwise approved by **Council**;

Authorised Officer – means a person appointed by **Council** under section 224 of the *Local Government Act* 1989;

bike share scheme – means any service in which bicycles are made available to individuals on a short-term basis for free or for a fee;

building – includes any building or structure whether temporary or permanent, or any part of a building or structure;

bulk rubbish container – includes trade waste storage bins, waste bins, mini-skips, shipping containers, pallets and any other structure designed to receive or store waste but does not include an **approved waste receptacle**;

charity bin – means a bin designed for the collection of clothing and other items, and identified as such, for charitable or other purposes;

commercial enterprise – means a business, partnership or an enterprise carried on for profit;

commercial purposes – means something done directly or indirectly in connection with any business or other undertaking intended for profit;

Council – means Boroondara City Council;

Council-controlled land – means any land which **Council**, owns, occupies, manages, has leased or licensed to another person or is otherwise under **Council's** control and management, other than a **road**;

Cypress Hedges Policy – means **Council's** 'Management of Cypress Hedges Policy' as adopted by **Council** on 24 October 2005 as amended or replaced from time to time;

dilapidated – means a **building** fallen into a state of disrepair, decayed, deteriorated, broken down or a partial ruin through neglect, misuse or vandalism;

e-scooter – means a scooter that is or can be propelled by an electric motor;

e-scooter share scheme – means any service in which **e-scooters** are made available to individuals on a short-term basis for free or for a fee;

e-waste – means waste in the form of electrical or electronic equipment, devices or things (or materials or parts of such equipment, devices or things), the operation of which is dependent on, or designed for the generation, transfer or measurement of, an electric current or electromagnetic field;

event – means an organised recreational, cultural, commercial or social event or gathering of people, including a carnival, festival, street party, procession or any similar activity;

farm animal – means a hoofed animal, such as a cow, sheep, pig or similar animal;

fire hazard – means a material, substance or action that increases the likelihood of an accidental fire occurring;

formed path – means a path provided by **Council** and used for the purpose of **active travel** and includes a **shared path**;

graffiti – means an unauthorised mark or marks, whether written, drawn, sprayed, scratched or otherwise made, which cannot readily be removed by wiping with a damp cloth;

hard waste – means garden refuse, rubbish of a size, shape, nature or volume that cannot be contained in an **approved waste receptacle**, a brick, concrete, masonry or engine part and any other type of rubbish specified by **Council** from time to time;

heavy vehicle – has the same meaning as in the *Road Safety Road Rules* 2017;

incinerator – includes a structure, device or piece of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and which is not:

(a) enclosed in any **building**;

(b) a purpose-built or constructed a barbecue, grill, pizza oven, brazier, portable fire pit constructed of fire resistant materials or similar, being used for the purpose of cooking food or providing heat; or

(c) licensed under the provisions of the *Environment Protection Act* 1970;

infringement notice – means an infringement notice issued by an **Authorised Officer** in respect of an **offence** against this Local Law;

licence – means a licence to use or occupy land granted by **Council** as the **owner**, **occupier** or manager of that land;

multi-residential dwelling – means a dwelling being part of two or more dwellings on a single lot;

municipality – means the municipal district of **Council**;

non-residential building work – means building works not pertaining to a residential dwelling, outbuilding or other structure ancillary to a residential dwelling;

notice to comply – means a notice to comply issued under this Local Law;

nuisance – means any behaviour or condition which is or is liable to be dangerous to health or is noxious, annoying or injurious to personal comfort;

occupier – means the person who is for the time being in charge of land;

offence – means an offence against or a breach of a provision of this Local Law, or of a **permit**, **notice to comply** or direction issued under this Local Law;

open air – has the same meaning as in Division 3 of Part III of the *Country Fire Authority Act* 1958;

owner – means the person or persons for the time being entitled to be registered on Title as the owner of land and, where more than one person, each of them jointly and severally;

parking permit - means a **permit** issued under the **Parking Permit Policy**;

Parking Permit Holder – means a person to whom a **parking permit** has been issued;

Parking Permit Policy – means the Parking Permit Policy adopted by **Council** on 22 August 2016 as amended or replaced from time to time;

pavement light – means a device incorporated into the footpath or roadway adjacent to **private land** for the provision of natural light to those parts of a **building** on that **private land** below ground level;

Penalty Units – has the same meaning as in section 110(2) of the *Sentencing Act* 1991;

permit – means a permit issued under this Local Law;

planning permit – means a **permit** issued under the **Planning Scheme**;

Planning Scheme – means the Boroondara Planning Scheme;

private land – means all land other than **Council-controlled land** and **roads**;

public place – has the same meaning as in section 3 of the *Summary Offences Act* 1966;

residential area – means an area zoned as residential under the **Planning Scheme** and includes an area which is predominantly in a residential zone under the **Planning Scheme**;

residential land or premises – means land or premises that is or are developed or used predominately for residential purposes;

retailer – means a person who sells goods by retail and provides shopping trolleys to his or her customers;

road – has the same meaning as in the *Local Government Act* 1989;

security bond – means a payment or guarantee made to **Council** for the purposes of defraying costs to repair damage to assets or as required under this Local Law;

shared path – has the same meaning as in the *Road Safety Road Rules* 2017;

spruik – means haranguing or addressing members of the public (whether directly or by the use of pre-recorded speech or messages) to encourage members of the public to enter commercial premises, purchase goods or services, or both;

storage container – means a form of container that is moveable and is used for the purposes of storage and includes a shipping container or vessel of a similar nature;

street furniture – means tables and chairs, stools and benches, umbrellas, goods or other items for sale, wind frames (barriers) and similar items which are placed on any **road** or **Council-controlled land**;

traffic controls – means the same as "traffic control devices" in the *Road Safety Road Rules* 2017;

unsightly land – means land the condition of which is detrimental to the amenity of the locality in which it is situated;

vacant land – means land on which there is no house or other structure approved for human occupation;

vehicle – has the same meaning as in *Road Safety Road Rules* 2017;

wheeled recreational device – has the same meaning as in *Road Safety Road Rules* 2017;

wheeled toy – has the same meaning as in *Road Safety Road Rules* 2017; and

work – includes any change to the natural or existing condition or topography of land including but not limited to trenching, digging, excavating or filling whether by mechanical or manual methods.

7. Conflict with Other Legislation

This Local Law does not apply where any act or thing is authorised by or under any other legislative instrument or the **Planning Scheme**.

PART B – ADMINISTRATION

8. Permits

8.1. Wherever in this Local Law a **permit** is required, **Council** may:

8.1.1. grant the **permit**;

8.1.2. refuse to grant the **permit**;

8.1.3. grant the **permit** subject to conditions; or

8.1.4. determine that no **permit** is required.

8.2. An application for a **permit** must be:

8.2.1. made in writing and include the following particulars:

8.2.1.1. the name and address of the **applicant**;

8.2.1.2. the capacity in which the **applicant** makes the application;

8.2.1.3. a statement of the purpose for which the **permit** is sought;

8.2.1.4. the location of the proposed activity;

8.2.1.5. the day and the time when the proposed activity is to take place and its expected duration;

8.2.1.6. the signature of the **applicant** or a person authorised to sign for and on behalf of the **applicant**; and

8.2.1.7. such other particulars as **Council** may require;

8.2.2. true and correct;

8.2.3. forwarded to the person or office described on the application form with the fee, if any, payable to **Council** and in the amount as is fixed by **Council** from time to time; and

8.2.4. in the form approved by **Council** from time to time.

8.3. If required by **Council**, an **applicant** must provide such additional information as may be specified before the application for a **permit** will be processed and determined.

8.4. If required by **Council**, an **applicant** for a **permit** must give such notice of that application, or invite any person to make a submission, or do both, as may be specified.

8.5. In considering an application for a **permit**, **Council** must consider:

8.5.1. any policy or guideline adopted by **Council** relating to the subject matter of the application for the **permit**;

8.5.2. any written objection, submission or comment received in respect of the application, where they are invited under clause 8.4; and

8.5.3. any other relevant matter.

8.6. A **permit** will be in the form approved by **Council** from time to time and may include any condition which **Council** considers to be reasonable and appropriate, including:

8.6.1. a requirement that a **security bond**, release, indemnity and/or guarantee (in a form specified) be lodged with or given to **Council** to secure the proper performance of the **permit**;

8.6.2. a requirement that notice be given to **Council** as to when the activities authorised by the **permit** will be carried out or will occur;

8.6.3. a time limit on the **permit** or on the activities authorised by it;

8.6.4. provision for extension of the **permit;**

8.6.5. the payment of a fee or charge;

8.6.6. a standard to be applied;

8.6.7. that the **permit** is conditional on the happening of a certain event or prerequisite;

8.6.8. that the **permit** is conditional upon the rectification, remedying or restoration of any situation or circumstance; or

8.6.9. where the **applicant** is not the **owner** of the relevant premises, that the consent of the **owner** be obtained.

8.7. Unless otherwise stated in the **permit**, a **permit**:

8.7.1. authorises only the person or persons named on the **permit** to carry out the activity authorised by the **permit**, including by engaging contractors or appointing agents; and

8.7.2. is not transferable.

9. Compliance with permits

Every person to whom a **permit** is granted must do every act and thing that may be necessary to ensure compliance with the **permit** and its conditions.

10. Correction, amendment, cancellation and suspension

10.1. **Council** may correct a **permit** if the **permit** contains:

10.1.1. a clerical mistake or an error arising from any accident, slip or omission; or

10.1.2. a material miscalculation of figures or a material mistake in the description of any person, premises, thing or property referred to in the **permit**.

10.2. **Council** may cancel, suspend or amend any **permit** at any time if:

10.2.1. it is requested to do so by the **permit**-holder; or

10.2.2. it considers that there has been:

10.2.2.1. a material misrepresentation or concealment of fact in relation to the application for the **permit**;

10.2.2.2. any material mistake in relation to the grant of the **permit**; or

10.2.2.3. any material change of circumstances which has occurred since the grant of the **permit**; or

10.2.2.4. the **permit**-holder or his or her agent for the **permit** defaults in payment of the **permit**.

10.3. **Council** may cancel or suspend a **permit** at any time if **Council** is satisfied that there has been a substantial failure to comply with a:

10.3.1. **permit** condition; or

10.3.2. **notice to comply** relating to the premises, item or activity to which the **permit** relates.

10.4. **Council** may cancel or suspend a **permit** at any time where **Council** determines that the **permit** may result in a hazard, danger or inconvenience to any other person, premises, thing or property.

11. General permit provisions

11.1. The holding of a **permit** or compliance with a condition included in a **permit** does not of itself relieve the **permit**-holder from:

11.1.1. compliance with any other legislation with respect to the subject matter of the **permit**; or

11.1.2. liability for any damage sustained by any person as a result of an activity undertaken by or on behalf of the **permit**-holder pursuant to the **permit**.

11.2. A person applying for a **permit** or amendment of a **permit** must not make or allow to be made any false representation or declaration in or in relation to that application or **permit**.

11.3. A person who makes a false representation or declaration (whether oral or in writing), or who omits relevant information from an application for a **permit** or exemption, is guilty of an **offence**.

11.4. Except where expressly stated in this Local Law or in a **permit**, the **permit** will operate from the date it is granted and will expire on the following 30 June.

12. Fees and Charges

12.1. **Council** may from time to time by resolution determine:

12.1.1. the quantum of any fees, charges, guarantee or bond to apply under this Local Law; and

12.1.2. an administrative, inspection or processing fee or charge in addition to a standard fee, charge, guarantee or bond applying under this Local Law.

12.2. In determining a fee or charge, **Council** may establish a system or schedule of fees and charges, including a minimum or maximum fee or charge, if it considers it appropriate to do so.

12.3. **Council** may waive, reduce, alter or refund, in whole or in part, any fee, charge, bond or guarantee with or without conditions.

13. Powers of Council

13.1. Without affecting the operation of any particular provision of this Local Law, unless the contrary intention appears everything that:

13.1.1. **Council** is capable of doing under this Local Law is also capable of being done by an **Authorised Officer**; and

13.1.2. an **Authorised Officer** is capable of doing under this Local Law is also capable of being done by **Council**.

13.2. Clause 13.1.1 does not empower an **Authorised Officer** to exercise any power conferred by clause 12.3.

14. Notice to Comply

14.1. Where **Council** reasonably believes that a person has committed an **offence** against this Local Law, **Council** may issue to the person a written **notice to comply** which:

14.1.1. requires the person to stop the conduct constituting the **offence**;

14.1.2. contains a direction indicating what action is required to stop the conduct constituting the **offence**;

14.1.3. contains a direction indicating what action is required to achieve compliance with this Local Law; and/or

14.1.4. contains a direction to remedy any consequences arising from the conduct constituting the **offence**.

14.2. A **notice to comply** must include information about:

14.2.1. the name of the alleged offender (if known);

14.2.2. the **offence**, and the provision of this Local Law it infringes;

14.2.3. the action required to stop the conduct constituting the **offence**;

14.2.4. the action required to remedy any consequences arising from the conduct constituting the **offence**;

14.2.5. the time for compliance;

14.2.6. the date on which it was issued; and

14.2.7. the name and signature of the **Authorised Officer** or **Council** delegate issuing the **notice to comply**.

15. Reasonable time to comply

15.1. The time for compliance with a **notice to comply** issued under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied.

15.2. In determining what is reasonable, **Council** will consider:

15.2.1. the amount of work involved;

15.2.2. the degree of difficulty;

15.2.3. the availability of necessary materials or other items;

15.2.4. climatic conditions;

15.2.5. the degree of risk or potential risk to third parties and the public generally; and

15.2.6. any other relevant factors.

16. Failure to adhere to a notice to comply

Any person served with a **notice to comply** under this Local Law who fails or refuses to comply with it is guilty of an **offence**.

17. Power To Act in Urgent Circumstances

Council may act to remedy any circumstance which threatens a person's life, health or property, or an animal, or to prevent any danger to the environment or any **nuisance** arising, without serving a **notice to comply**, provided that:

17.1. the circumstance arises out of a person's use of **Council-controlled land** or a **road** or failure to comply with a provision of this Local Law;

17.2. **Council** considers the circumstance to be sufficiently urgent that the time necessary to serve, or the potential difficulty in serving, a **notice to comply** may place the person's life, health or property, or the animal or the environment at risk or in danger of substantial detriment;

17.3. the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and

17.4. the person on whom a **notice to comply** under clause 14 would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

18. Impounding

18.1. **Council** may seize and impound any thing which is, has been or is being used, possessed, placed or left in contravention of this Local Law.

18.2. Where a thing has been impounded under this Local Law, **Council** must, if it is practicable to do so, serve notice of the impounding personally, by email or by ordinary post on the person who appears to be the **owner** of it.

18.3. On receipt of evidence that, to **Council's** reasonable satisfaction, shows that a person is the **owner** of an impounded thing, and on payment of a fee determined by **Council**, an impounded thing must be given back to:

18.3.1. its **owner**; or

18.3.2. a person who provides satisfactory evidence to **Council** of his or her authority from the thing's **owner** to act on the **owner's** behalf.

18.4. Where an impounded thing has not been claimed within 30 days of notice being given in accordance with clause 18.2, or within 30 days of the thing being impounded if it is not practicable to serve notice of the impoundment in accordance with clause 18.2, **Council** may:

18.4.1. sell the impounded thing and retain any proceeds of sale as general revenue; or

18.4.2. if the value of the impounded thing is less than the cost of selling it, donate it to a registered charity or local community group.

19. Appeals

19.1. A person may request that **Council** reviews an order, direction, decision or notice issued in relation to him or her under this Local Law.

19.2. Where a request for review has been made under clause 19.1, the person requesting the review must do everything practicable to cooperate in the prompt and speedy review of the order, direction, decision or notice.

20. Security Bonds

20.1. In deciding to grant a **permit, Council** may require the **applicant** to lodge with **Council** a **security bond** in such amount and in such a manner as **Council** determines.

20.2. In the event that a person to whom a **permit** is issued breaches the **permit** conditions attached to the **permit** or this Local Law, **Council** may apply so much of the **security bond** as is necessary to remedy that breach and repair any damage caused by that breach.

20.3. Upon expiry of a **permit**, **Council** must release any remaining **security bond** to the person who paid it.

20.4. If, after 12 months from the date that the **security bond** would be released under clause 20.3, **Council** cannot locate a person entitled to the release of any **security bond** or remaining **security bond**, **Council** may, subject to law, retain the **security bond** or remaining **security bond** and pay the money into its general revenue.

21. Incorporated Documents

The following documents are incorporated into this Local Law:

21.1. **Cypress Hedges Policy**; and

21.2. **Parking Permit Policy**.

PART C – ENFORCEMENT

22. Offences

22.1. A person is guilty of an **offence** if the person:

22.1.1. does something which a provision of this Local Law prohibits to be done or makes an **offence**;

22.1.2. fails to do something which a provision of this Local Law requires to be done;

22.1.3. engages in an activity without a **permit** where a provision of this Local Law requires that person to obtain a **permit** before engaging in that activity;

22.1.4. breaches or fails to comply with a condition of a **permit** issued under this Local Law; or

22.1.5. fails to comply with a **notice to comply** or a direction of **Council** under this Local Law.

22.2. If a corporation is charged with an **offence** against this Local Law, any natural person who is concerned or takes part in the management of the corporation may also be charged with the same **offence**.

22.3. If a corporation is convicted of an **offence** against this Local Law, a natural person charged under clause 22.2 with the same **offence** may also be convicted of that **offence** and is liable to the penalty for that **offence** unless that natural person proves that the act or omission constituting the **offence** took place without his or her knowledge or consent.

23. Penalties

A person guilty of an **offence** under this Local Law is, where no other penalty is specified in Schedule 1 to this Local Law, liable to a penalty:

23.1. not exceeding 20 **Penalty Units**; and

23.2. for a continuing **offence**, not exceeding 2 **Penalty Units** for each day after the finding of guilt during which the contravention continues.

24. Infringement Notices

24.1. Where an **Authorised Officer** reasonably believes that a person has committed an **offence** against this Local Law, the **Authorised Officer** may issue and serve on that person an **infringement notice** as an alternative to a prosecution for that **offence**.

24.2. The infringement penalties fixed for **offences** against this Local Law are set out in Schedule 1 and, if no penalty is fixed for a particular **offence**, the penalty is two (2) **Penalty Units** for each **offence**.

PART D – ROADS AND COUNCIL-CONTROLLED LAND

25. Behaviour – Generally

25.1. A person must not on any **Council-controlled land**:

25.1.1. interfere with another person's reasonable use and enjoyment of that **Council-controlled land**;

25.1.2. endanger or be likely to endanger a person's health, life or property or an animal;

25.1.3. without a **permit**, do anything contrary to a sign erected on the **Council-controlled land**; or

25.1.4. play or practise golf (whether by hitting a golf ball or other kind of ball, or by swinging a golf club or otherwise) except on **Council-controlled land** designated by **Council** as a golf course.

25.2. A person must not, without a **permit**, organise a function, **event** or entertainment on **Council-controlled land** or a **road** that:

25.2.1. substantially occupies the **Council-controlled land** or **road**; or

25.2.2. encroaches or impacts or is likely to encroach or impact, on another person's use and enjoyment of the **Council-controlled land** or **road**.

25.3. A person must not, without a **permit** or **licence**, use any **Council-controlled land** or **road** for the purpose of conducting a business or for any other commercial purpose.

26. Consumption and Possession of Alcohol

26.1. A person or group of persons must not consume **alcohol** or have in his, her or their possession or control any open receptacle containing **alcohol**:

26.1.1. in a place which **Council** has resolved is an **alcohol-free zone** for the purposes of this Local Law; or

26.1.2. in any other place which **Council** resolves is a prescribed place for the purposes of this clause 26.

26.2. An **Authorised Officer** may, where that **Authorised Officer** reasonably believes that a person or group of persons has contravened or is contravening this clause 26, direct that person or group of persons to:

26.2.1. empty any open receptacle containing **alcohol** or reseal that open receptacle; or

26.2.2. surrender any open receptacle containing **alcohol** to the **Authorised Officer.**

26.3. A person or group of persons to whom a direction is given under clause 26.2 must comply.

26.4. If a person or group of persons to whom a direction is given under clause 26.2 does not comply with that direction the **Authorised Officer** may impound that open receptacle containing **alcohol**.

26.5. Notwithstanding the requirements of this clause 26, a person who consumes or possesses **alcohol** in any licensed premises or authorised premises as defined in *the Liquor Control Reform Act* 1998 is exempt from the application of this clause 26.

27. Trading Activities

27.1. A person must not, without a **permit**, on or above **Council-controlled land** or a **road**:

27.1.1. place any **advertising sign**;

27.1.2. display or sell any goods;

27.1.3. place any **street furniture** or associated items;

27.1.4. place any structure for the purpose of selling or offering to sell any goods or services;

27.1.5. sell or trade, or offer for sale or trade, or display to give away, any:

27.1.5.1. **vehicle**; or

27.1.5.2. goods or services carried about or placed on the person or any other moveable thing.

27.2. The person responsible for placement of an **advertising sign** contrary to clause 27.1.1 will, unless they can provide proof to the contrary, be the person who, or whose business, is identified on the **advertising sign**.

27.3. A person must not, without a **permit**, for **commercial purposes**, sell or offer for sale goods or services, seek subscriptions or solicit custom door to door, or permit or cause another person to do so, in a **residential area**.

27.4. A person must not, without a **permit**, engage in, or permit or cause another person to engage in, spruiking or the promotion of goods or services for **commercial purposes** on any **Council-controlled land** or **road**.

28. Appeals and Collections

28.1. A person must not, without a **permit**, solicit or collect any gifts, money or subscription, or permit or cause another person to do so, on any **Council-controlled land** or **road.**

28.2. A person must not, without a **permit,** erect or place, or permit or cause another person to erect or place, on any **Council-controlled land** or **road**, any **vehicle**, caravan, trailer, table, stall or similar structure for the purpose of selling or offering for sale any goods or services or conducting a raffle or lottery.

28.3. Notwithstanding clause 28.1 a person participating in highway collections approved under the *Road Safety Act* 1986 does not require a **permit** from **Council**.

29. Charity Bins

A person must not, without a **permit**, place, or cause or allow to be placed, a **charity bin** on **Council-controlled land** or a **road**.

30. Obstructions on Council-controlled land

30.1. An **owner** or **occupier** of **private land** must not allow an **advertising sign** or any other object to:

30.1.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or

30.1.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land** or **road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land** or **road**, or with street lighting.

30.2. An **owner** or **occupier** of **private land** must not allow any vegetation to:

30.2.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or

30.2.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land** or **road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land** or **road**, or with street lighting,

except where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**.

30.3. Where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**, an **owner** or **occupier** of that **private land** must take the action required under the **Cypress Hedges Policy**.

30.4. The **Cypress Hedges Policy** is hereby incorporated into this Local Law.

31. Obstructions on Roads

A person must not allow any **vehicle** or trailer whether or not registered with VicRoads or equivalent interstate road authorities, to be placed or remain on any **road** if the placement of such **vehicle** or trailer would cause a danger, hazard or substantially interfere with another **vehicle** or any person's use of the **road,** or obstruct the clear view of **traffic controls** by a person on the **road** or adjacent land.

32. Changes to and Occupation of Council-Controlled Land and Roads

32.1. A person must not, without a **permit** or **licence**:

32.1.1. cause any change to **Council-controlled land** or a **road** or anything on it; or

32.1.2. remove anything from **Council-controlled land** or a **road**.

32.2. A person must not, without a **permit** or **licence**:

32.2.1. occupy any **Council-controlled land** or a **road** by storing on it any boat, trailer, caravan or **storage container**; or

32.2.2. use a mobile vehicular or non-vehicular crane or travel tower or an extendable feed style concrete pump truck or other similar **vehicle** and/or machinery on, over or from **Council-controlled land** or a **road.**

33. Filming and Photography on Council Land

A person must not, without a **permit**, on any **Council-controlled land** or a **road**, conduct any filming or photography, unless the person:

33.1. occupies for the purpose an area not exceeding 10sqm and does not obstruct the **Council-controlled land** or **road** or otherwise create a hazard to any person on that **Council-controlled land** or **road**; or

33.2. is part of a news crew engaged in reporting on news.

34. Repair of Vehicles and Storage of Heavy Vehicles

34.1. A person must not perform any work to a **vehicle**, including to repair, service, wash, clean or dismantle a **vehicle**, on any **Council-controlled land** or a **road**, except running repairs necessary to enable the **vehicle** to be removed from the **Council-controlled land** or **road**.

34.2. A person must not, without a **permit**, on any **private land** or **Council-controlled land** in a **residential area**:

34.2.1. allow a **heavy vehicle** to be kept or stored; or

34.2.2. perform any work on a **heavy vehicle**, including to repair, service, wash, clean or dismantle a **heavy vehicle**, except running repairs necessary to remove the **heavy vehicle** from the **private land** or **Council-controlled land**.

35. Use of Vehicles on Council-controlled land

35.1. A person must not, on any **Council-controlled land**:

35.1.1. ride or drive any motor car, motorcycle or similar **vehicle** other than on a designated roadway or in an area set aside for **vehicle** parking; or

35.1.2. ride any bicycle or similar **vehicle** other than on any **formed path** or in an area set aside for **vehicle** parking; or

35.1.3. stop or park any motor car, motorcycle, bicycle or other **vehicle** other than in an area set aside for **vehicle** parking.

35.2. A person does not commit an **offence** against this clause 35 if that person:

35.2.1. is directed to ride, drive, stop or park on **Council-controlled land** by an **Authorised Officer** or by a member of the Police Force;

35.2.2. parks a bicycle in an area that is not set aside for **vehicle** parking provided that in doing so the bicycle does not obstruct the free use of the area; or

35.2.3. is a person who is learning to ride a bicycle, other than on a **formed path** or in an area set aside for **vehicle** parking, provided that the person does not interfere with another person's use or enjoyment of the relevant **Council-controlled land**.

36. Bike Share Scheme

36.1. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must not, without a **permit**, allow any bicycle owned or operated by that person to be within the **municipality**.

36.2. A person must not make available for use, or permit to be used, in the **municipality**, a bicycle used for the purpose of a **bike share scheme** that does not have a device which is attached to it and used so as to ensure the return of the bicycle to an area specifically designated for the storage of bicycles.

36.3. **Council** may exempt a person or a class of persons from the application of clause 36.1 if a bicycle used for the purpose of a **bike share scheme** is left or placed in an area designated by **Council**.

36.4. A person who owns or operates a bicycle used for the purposes of a **bike share scheme** is guilty of an **offence** if such a bicycle is:

36.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;

36.4.2. left or placed in a place that detrimentally affects the amenity of that place.

36.5. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must:

36.5.1. remove within 24 hours of notification any bicycle in contravention of clause 36.3;

36.5.2. remove within 24 hours of notification any bicycle that is damaged or missing any part; and

36.5.3. comply with the conditions of a **permit**.

37. E-Scooter Share Scheme

37.1. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must not, without a **permit**, allow any **e-scooter** owned or operated by that person to be within the **municipality**.

37.2. A person must not make available for use, or permit to be used, in the **municipality**, an **e-scooter** used for the purpose of an **e-scooter share scheme** that does not have a device which is attached to it and used so as to ensure the return of the **e-scooter** to an area specifically designated for the storage of **e-scooters**.

37.3. **Council** may exempt a person or a class of persons from the application of clause 37.1 if an **e-scooter** used for the purpose of an **e-scooter share scheme** is left or placed in an area designated by **Council**.

37.4. A person who owns or operates an **e-scooter** used for the purposes of an **e-scooter share scheme** is guilty of an **offence** if such an **e-scooter** is:

37.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;

37.4.2. left or placed in a place that detrimentally affects the amenity of that place.

37.5. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must:

37.5.1. remove within 24 hours of notification any **e-scooter** in contravention of clause 37.3;

37.5.2. remove within 24 hours of notification any **e-scooter** that is damaged or missing any part; and

37.5.3. comply with the conditions of a **permit**.

38. Wheeled Recreational Devices and Wheeled Toys

A person must not use any **wheeled recreational device, wheeled toy** or other similar device on any **Council-controlled land** so as to endanger, intimidate, obstruct or hinder a person, persons or **vehicle**.

39. Parking Permits

A **Parking Permit Holder** must not, and must ensure that his or her visitors, employees and sub-contractors do not:

39.1. lease out, rent out, lend or sell a **parking permit** to another person or duplicate a **parking permit**;

39.2. charge any person a fee to use a **parking permit** or accept any consideration (monetary or otherwise) from a person for the use of a **parking permit**;

39.3. give or otherwise provide a **parking permit** to any person not entitled to use the **parking permit** under the **Parking Permit Policy**; or

39.4. allow or assist any other person, not entitled to use a **parking permit** under the **Parking Permit Policy**, to misuse the **parking permit** contrary to the **Parking Permit Policy**.

40. Caravans and Camping

40.1. A person must not, without a **permit**, have more than one caravan, campervan, motor home or similar **vehicle** on **private land** within a **residential area**.

40.2. A person must not, without a **permit**, occupy or allow another person or persons to occupy a caravan, campervan, motor home or similar **vehicle**, tent or any other temporary or makeshift structure on any **private land** for more than three weeks in any one calendar year.

40.3. A person must not occupy or allow another person to occupy a caravan, campervan, motor home or similar **vehicle**, or tent or any other temporary or makeshift structure on any **Council-controlled land**.

41. Shopping Trolleys

41.1. A person must not leave a shopping trolley on any **road** or **Council-controlled land** other than in an area specifically designated for the storage of shopping trolleys.

41.2. If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 41.1, the **retailer** who owns the shopping trolley is also guilty of an **offence**.

41.3. Subject to clause 41.4, a **retailer** must not provide or make available for use or permit to be used, a shopping trolley which does not have:

41.3.1. attached to it a plate or other marking identifying the name, address and contact phone number of the **retailer**; and

41.3.2. a fully operating mechanism which disables or otherwise prevents the shopping trolley from being taken beyond the boundaries of the **approved area**.

41.4. Upon an application by a **retailer**, **Council** may resolve in its absolute discretion to exempt a **retailer** from the application of clause 41.3, either in whole or in part, temporarily or permanently and subject to such conditions as **Council** may determine.

41.5. If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 41.1, **Council** may, by notice provided to the address depicted on the shopping trolley, direct the **retailer** to remove the shopping trolley and state:

41.5.1. the period within which the shopping trolley is to be removed; and

41.5.2. that it is an **offence** for the **retailer** not to remove the shopping trolley.

41.6. On the first business day of each month, or as soon as possible thereafter, a list of shopping trolleys that have been impounded by **Council** will be forwarded to each **retailer** stating:

41.6.1. the period within which the shopping trolleys must be claimed;

41.6.2. that unclaimed shopping trolleys may be disposed of by **Council** after the period; and

41.6.3. that it is an **offence** for a **retailer** to not claim an impounded shopping trolley.

41.7. Any impounded shopping trolley may be claimed by the **retailer** that owns the shopping trolley after payment of the fee set by **Council**.

41.8. Any impounded shopping trolley not claimed within the time specified on the list of impounded shopping trolleys issued under clause 41.6 may be disposed of by **Council** without further notice to any person.

41.9. A **retailer** who does not remove a shopping trolley or claim an impounded shopping trolley within the period stated by **Council** under clauses 41.5 or 41.6 is guilty of an **offence**.

41.10. Clause 18, other than clause 18.1, does not apply to shopping trolleys.

PART E – THE ENVIRONMENT

42. Dangerous and Unsightly Land and Nuisances

42.1. An **owner** or **occupier** of **private land** must ensure that the **private land** and any **building** or other structure on the **private land**:

42.1.1. is not a danger to health of any person or animal or property or likely to become a danger to health of any person or animal or property;

42.1.2. does not constitute a **fire hazard**;

42.1.3. does not contain grass or weeds in excess of 150 mm in height;

42.1.4. is not unsightly, or detrimental to the general amenity of adjoining land or the neighbourhood, including through the presence of:

42.1.4.1. stored unregistered or derelict **vehicles** or machinery or any parts of them;

42.1.4.2. **storage containers**;

42.1.4.3. scrap metal, timber, building materials or building refuse;

42.1.4.4. waste paper, cardboard, bottles or other refuse;

42.1.4.5. soil or similar materials;

42.1.4.6. overgrown vegetation; or

42.1.4.7. **buildings** on the land which have been damaged;

42.1.5. is kept free of any **graffiti**; and

42.1.6. is not used in any manner or left in any state that may cause a **nuisance** or become detrimental to the amenity of the immediate area.

42.2. An **owner** or **occupier** of **private land** must not allow any **building** or other structure on that **private land** to become **dilapidated**.

42.3. An **owner** or **occupier** of **private land** must take reasonable steps to prevent the movement of soil, sediment and other substances from the **private land** to the adjoining **road**.

42.4. An **owner** or **occupier** of **private land** which has the benefit of **pavement lights** must ensure that those **pavement lights** are maintained so as not to fall into a state of disrepair.

42.5. Without limiting the generality of clause 14.2, a **notice to comply** issued by an **Authorised Officer** with respect to an **offence** against this clause 42 may include a direction that the **private land, building** or structure be:

42.5.1. cleared of any substance, material or equipment;

42.5.2. suitably fenced, screened or otherwise enclosed in the manner specified in the **notice to comply**;

42.5.3. cleaned or painted in a manner that removes or obliterates **graffiti** specified in the **notice to comply**;

42.5.4. boarded up or otherwise secured to prevent access or otherwise alleviate the danger, unsightliness, **nuisance**, detriment to general amenity or offending condition; and/or

42.5.5. protected by warning signs or barriers to alert members of the public to the presence on the **private land** of a danger to persons entering the **private land**.

43. Open Air Burning and Incinerators

43.1. A person must not burn or cause or allow to be burned any substance that is likely to cause a risk of fire to the area surrounding the fire or to endanger the safety of any person or animal.

43.2. A person must not, without a **permit**, light a fire in the **open air**, or allow a fire to be lit or remain alight in the **open air**, unless the fire is lit:

43.2.1. in a purpose-built or constructed barbeque, grill, pizza oven, chiminea, brazier or similar for the purpose of cooking food;

43.2.2. in a brazier, chiminea or purpose built or portable fire pit constructed of fire resistant materials while its being used for heating; or

43.2.3. for a religious or cultural ceremony.

43.3. An **owner** or **occupier** of **private land** must not use an **incinerator** or allow an **incinerator** to be used on that **private land**.

43.4. An **owner** or **occupier** of **private land** on which a fire has been lit in breach of this Local Law, or a person who has lit a fire in breach of this Local Law, must immediately take all steps necessary to extinguish the fire:

43.4.1. on becoming aware of such a fire; or

43.4.2. on being directed to extinguish the fire by:

43.4.2.1. an **Authorised Officer**;

43.4.2.2. a member of the Police Force; or

43.4.2.3. a member of the Metropolitan Fire Brigade or the Emergency Services Board.

43.5. If a person who has breached this clause 43 is unable or unwilling to extinguish the fire, an **Authorised Officer** shall notify a member of the Metropolitan Fire Brigade or the Emergency Services Board.

44. Drains and Watercourses

44.1. A person must not, on any **private land** without a **permit** or **licence**, interfere with, excavate, build, pave or landscape within or over an easement in **Council's** favour, or cause any change or obstruction or damage to a drain, sewer, watercourse or associated infrastructure which **Council** controls or manages.

44.2. An **owner** or **occupier** of **private land** must not, without a **permit**, damage or otherwise interfere with any part of **Council**'s drainage infrastructure.

44.3. An **owner** or **occupier** of **private land** must ensure that any drain on that **private land** properly discharges to an approved point of discharge being **Council's** drainage infrastructure.

44.4. An **owner** or **occupier** of **private land** must not allow a drain located on that **private land** to become blocked or otherwise fall into disrepair.

44.5. An **owner** or **occupier** of **private land** on which a **Council**-maintained drain or associated infrastructure exists must notify **Council** if the drain or associated infrastructure becomes blocked, damaged or fails to operate effectively as soon as practicable after the **owner** or **occupier** becomes, or ought reasonably to have become, aware of the condition arising.

44.6. The requirement to obtain a **permit** or **licence** does not apply where **Council** has given its approval for the drain to be tapped into under legislation administered by it, except:

44.6.1. where construction has ceased or been completed; and

44.6.2. that this exemption does not permit an **owner** or **occupier** of **private land** to cause or sustain damage or blockage to a drain.

45. Household, Recycling and Organic Waste Storage

Where **Council** provides a waste collection service, the **owner** or **occupier** of **private land** must:

45.1. only use an **approved waste receptacle** for **Council**-provided waste collections;

45.2. not dispose of any **e-waste** in an **approved waste receptacle**;

45.3. ensure the lid of the **approved waste receptacle** is left closed after material is placed in or removed from it;

45.4. keep the **approved waste receptacle** in a clean, inoffensive and sanitary condition; and

45.5. store the **approved waste receptacle** on the **private land** to which the waste collection service is provided, except for a maximum of 24 hours prior to the scheduled collection and a maximum of 24 hours following it, when it may be placed in the adjacent footpath or nature-strip in accordance with **Council** guidelines as issued from time to time.

46. Hard Waste Collection

46.1. Where a **hard waste** collection has been booked by a resident or is otherwise provided by **Council**, a person must not place the items out for collection more than 48 hours prior to the scheduled collection and must comply with any written or verbal directions of **Council**.

46.2. A person must not deposit or allow to be deposited any **hard waste** contrary to the written or verbal directions pursuant to clause 46.1.

47. Bulk Rubbish and Trade Waste Storage

47.1. A person must not, without a **permit,** place, allow to be placed or cause to be placed on any **Council-controlled land** or a **road**:

47.1.1. a **bulk rubbish container**;

47.1.2. any other thing on **Council-controlled land** or a **road** which interferes with the use of the **Council-controlled land** or **road**.

47.2. Unless exempted by **Council**, the person to whom a **permit** is issued under this clause must ensure that the **bulk rubbish container** to which the **permit** relates is:

47.2.1. constructed of impermeable material;

47.2.2. watertight;

47.2.3. fly and vermin proof;

47.2.4. equipped with a removable drainage plug, if required by the **permit**;

47.2.5. emptied at least every seven (7) days, or otherwise as required by the **permit**; and

47.2.6. maintained in a clean, inoffensive and sanitary condition.

47.3. If directed by **Council**, the person to whom a **permit** is issued under this clause 47 must ensure that the area to which the permit relates and in which the **bulk rubbish container** is placed:

47.3.1. has an impermeable surface;

47.3.2. is drained to a sewer or other outlet approved by **Council**;

47.3.3. is supplied with water from a tap and hose; and

47.3.4. is maintained in a clean, inoffensive and sanitary condition.

48. Screening of Bins and Containers

Council may, by notice in writing, direct the **owner** or **occupier** of **private land** on which there is an **approved waste receptacle** or **bulk rubbish container** that is:

48.1. unsightly;

48.2. dangerous, or likely to become dangerous, to the health of any person, **animal** or property; or

48.3. detrimental to the general amenity of the neighbourhood;

to:

48.4. install;

48.5. repair;

48.6. replace; or

48.7. modify

a fence or other means of screening the **approved waste receptacle** or **bulk rubbish container** from public view.

49. Noise

49.1. In or adjacent to a **residential area** a person must not:

49.1.1. leave the engine of a stationary **heavy vehicle** running for more than five (5) continuous minutes;

49.1.2. without a **permit**, deliver to, or collect from, or cause or allow a delivery to or collection from, a **commercial enterprise** any goods, or provide any services, including waste collection services, to a **commercial enterprise**, or allow a refrigeration unit mounted on a **vehicle** to run:

49.1.2.1. before 9am or after 10pm on a public holiday;

49.1.2.2. between 10pm on Friday and 9am the next day;

49.1.2.3. between 10pm on Saturday and 7am the following Monday; or

49.1.2.4. between 10pm on Monday, Tuesday, Wednesday or Thursday and 7am the next day.

49.2. A person must not, without a **permit**, carry out or allow to be carried out **non-residential building work**:

49.2.1. on a public holiday;

49.2.2. between 5pm on Friday and 8am the next day;

49.2.3. between 5pm on Saturday and 7am the following Monday; or

49.2.4. between 6.30pm on any Monday, Tuesday, Wednesday or Thursday and 7am the next day;

unless the **non-residential building work** is necessary to protect life or property or unless a **planning permit** has provided approval to do so.

50. Wasp Nests and Bees

Upon becoming aware of the existence of:

50.1. a wasp nest; or

50.2. bee hives or bee swarms that do not comply with any relevant Apiary Code of Practice or are not otherwise permitted by the **Planning Scheme**

on **private land**, the **owner** or **occupier** of that **private land** must immediately take steps to cause the nest, hives or swarms to be removed by an appropriately qualified contractor.

PART F – ANIMALS

51. Keeping Domestic Animals

51.1. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any more than:

51.1.1. the number of **animals** specified in the table at clause 51.5; and

51.1.2. four different types of **animals**, in which case the numbers specified in the table at clause 51.5 are cumulative.

51.2. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any **animal** that is not specified in the table at clause 51.5.

51.3. Clauses 51.1 and 51.2 do not apply where:

51.3.1. a **planning permit** has been obtained for **private land** used for the purposes of **animal** boarding or breeding, or for any other purpose permitted by the **planning permit**; or

51.3.2. an **owner** or **occupier** of **private land** keeps more than the specified number of **animals** on that **private land** at the commencement of this Local Law, provided that:

51.3.2.1. those **animals** are kept in accordance with a **permit** issued under the previous Local Law (if one was required); and

51.3.2.2. where one or more of those **animals** is permanently removed from the **private land**, that **animal**, or those **animals**, shall not be replaced unless a **permit** is first granted under this clause 51; or

51.3.3. an **owner** or **occupier** of **private land** keeps more than the specified number or type of **animals** on that **private land** for no more than 14 consecutive days for the purpose of caring for **animals**:

51.3.3.1. owned by another; and

51.3.3.2. which are ordinarily kept on land occupied by that other.

51.4. An **owner** of **vacant land** must not, without a **permit**, keep, or allow to be kept, any **animal** on that **vacant land.**

51.5. Number of **animals**:

Type of Animal	**Maximum number of each type of animal permitted**
Private land with a single dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	2
Cats (over three months old)	2
Ferrets	2
Rabbits, guinea pigs, rats and mice	5
Farm animals	0
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	6
Turkeys, ducks and geese	2
Poultry other than that specified above	4
Domestic Birds (caged, non-poultry birds)	20
Private land with a multi-residential dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	1
Cats (over three months old)	2

Ferrets	0
Rabbits, guinea pigs, rats and mice	2
Farm animals	0
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	0
Turkeys, ducks and geese	0
Poultry other than that specified above	0
Domestic Birds (caged, non-poultry birds)	5

51.6. In determining whether to grant a **permit** for the keeping of **animals** where the number exceeds that determined by **Council** and which is set out in the table at clause 51.5, **Council** must take into account:

51.6.1. the zoning of the **private land**;

51.6.2. the proximity of the area to adjoining **private land**;

51.6.3. the amenity of the area in which the **private land** is located;

51.6.4. the type and additional numbers of **animals** to be kept;

51.6.5. the area of **private land** available for keeping the **animals**;

51.6.6. the likely effects on adjoining **owners** or **occupiers**;

51.6.7. the adequacy of **animal** shelters; and

51.6.8. any other matter relevant to the circumstances associated with the application.

51.7. An **owner** or **occupier** of **private land** must:

51.7.1. ensure that any **animals** kept on the **private land** are contained to the **private land** at all times, unless the **animals** are removed from the **private land** for any reason, in which case the **animals** must be contained so as to prevent their escape while outside the **private land**;

51.7.2. ensure that the area where **animals** are kept is thoroughly cleaned and maintained at all times in a clean and sanitary manner so as not to give rise to any **nuisance** or offensive condition;

51.7.3. keep the area of **private land** within 3 metres of the area or structure in which **animals** are kept free from dry grass, weeds, refuse, rubbish or other material capable of harbouring vermin or which may cause a health or safety risk to persons, **animals** or property;

51.7.4. keep all food or grain for **animals** on that **private land** in vermin-proof and fly-proof receptacles; and

51.7.5. drain the ground surrounding the place where **animals** are kept on that **private land**.

52. Treatment of Animals

Poultry must not be caged unless provided with ready access to an exercise run at least five metres long, two metres wide and one-and-a-half metres high.

53. Nuisances

An **owner** or **occupier** of **private land** must ensure that any **animal** or bird kept on that **private land** does not cause a **nuisance** to surrounding or neighbouring **owners** or **occupiers** of land.

54. Dogs

A person in charge of a dog on any **Council-controlled land** or a **road** must:

54.1. carry a receptacle or receptacles suitable for the removal of any excrement that may be deposited by the dog; and

54.2. not permit the excrement of the dog to remain on that **Council-controlled land** or **road**.

Attachment 3 - Boroondara - Amenity Local Law

SCHEDULE 1

Infringement Notice value and Court penalty for contravention of this Local Law
(All values expressed in Penalty Units)

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
16	**Failure to adhere to a Notice to Comply** Fail to comply with a **notice to comply.**	5	20
22.1.4.	**Offences** Fails to comply with a condition of a **permit**	2.5	20
25	**Behaviour Generally** Person contravenes behaviour requirements	2	20
25.3	Conducts business or commercial activities without a **permit** or **licence**	3	20
26	**Consumption and Possession of Alcohol**	2	20
27.1	**Trading Activities** Display of **advertising sign**, place any structure, **street furniture** to sell or trade any goods or services without a **permit**	5	20
27.3	Without a **permit,** for **commercial purposes**, sell or offer for sale goods or services, seek subscriptions or solicit custom door to door or permit or cause another person to do so, in a **residential area**	3	20
27.4	Without a **permit** engage in, or permit or cause another person to engage in, spruiking or the promotion of goods or services for **commercial purposes** on any **Council-controlled land** or **road**	3	20

Attachment 3 - Boroondara - Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
28.1	**Appeals & Collections** Without a **permit**, solicit or collect any gifts, money or subscriptions or permit or cause another person to do so on any **Council-controlled land** or **road**	3	20
28.2	Without a **permit** erect or place **vehicle**, caravan, trailer, table, stall or similar structure for purpose of selling goods or services or conducting a raffle or lottery	3	20
29	**Charity Bins** Place Charity Bin without a **permit**	5	20
30.1	**Obstructions on Council-controlled land** **Advertising sign** or other object obstructing **Council-controlled land** or other views	3	20
30.2	Vegetation obstructing **Council-controlled land** or other views	3	20
31	**Obstructions on Roads** Allowing a **vehicle** or trailer placed on any **road** to cause danger, hazard or interfere with use of a **road** or obstruct views	5	20
32.1	**Changes to and Occupation of Council-Controlled Land** Without a **permit** or **licence** cause change to or remove anything from **Council-controlled land**	5	20
32.2.1	Without a **permit** or **licence** occupy any **Council-controlled land** or a **road** by storing on it any boat, trailer, caravan or **storage container**	3	20
32.2.2	Without a **permit** use a mobile crane, travel tower or other similar vehicle or machinery	5	20

Attachment 3 - Boroondara - Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
33	**Filming and Photography on Council Land** Without a **permit** conduct any filming or photography on **Council-controlled land** or **road**	5	20
34.1	**Repair of Vehicles and Storage of Heavy Vehicles** Use **Council-controlled land** to repair, service or perform any work on a **vehicle**	5	20
34.2	Without a **permit** allow a **heavy vehicle** to be stored or perform any work on a **heavy vehicle** on land.	5	20
35.1	**Use of Vehicles on Council-Controlled Land** Use **vehicles** on **Council-controlled land** contrary to the requirements	3	20
36	**Bike Share Scheme** Own or operate Bicycle for the purpose of **bike share scheme** without a **permit**	3	20
37	**E-Scooter Share Scheme** Own or operate an **e-scooter** for the purpose of an **e-scooter share scheme** without a **permit**	3	20
38	**Wheeled Recreational Devices and Wheeled Toys** Use of **wheeled recreational devices**, wheeled toys or other similar devices on **Council-controlled land** to endanger, intimidate, obstruct and hinder	3	20
39	**Parking Permits** Fail to comply with obligations of a **Parking Permit Holder**	3	20

Attachment 3 - Boroondara - Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
40.1	**Caravans and Camping** Place more than one (1) caravan, campervan, motor home on **private land** within a **residential area** without a **permit**	3	20
40.2	Occupy or allow another to occupy a caravan, campervan, motor home, tent or similar on **private land** more than 3 weeks in any one calendar year without a **permit**	3	20
40.3	Occupy or allow another to occupy a caravan, campervan, motorhome, tent or similar on **Council-controlled land**	3	20
41.1	**Shopping Trolleys** Person leaves a shopping trolley other than in proper area	3	20
41.2	**Shopping Trolley** of a **retailer** left on a **road** or **Council-controlled land**	5	20
42.1	**Dangerous and Unsightly Land and Nuisance** **Owner** or **occupier** allows dangerous and **unsightly land** and **nuisance**	5	20
42.2	**Owner** or **occupier** allows **building** or other structure to become **dilapidated**	5	20
42.3	Must take reasonable steps to prevent the movement of soil, sediment and other substances from **private land** to the adjoining **road.**	3	20
42.4	Must ensure **pavement lights** are maintained so as not to fall into a state of disrepair.	5	20

Attachment 3 - Boroondara - Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
43.1	**Open Air Burning and Incinerators** Cause or allow to burn a substance that is likely to be offensive or cause fire risk or endanger the safety of any person or animal	4	20
43.2	light a fire in the **open air** without a **permit**	5	20
43.3	Use or allow an **incinerator** to be used	5	20
43.4	Fail to extinguish a fire	5	20
44.1 and 44.2	**Drains and Watercourses** Without a **permit** or **licence** interfere with a drain	5	20
44.3	Fail to ensure drain discharges to an approved point of discharge	5	20
44.4	Allow a drain to be blocked or fall in disrepair	5	20
44.5	Fail to notify **Council** if a drain or associated infrastructure becomes blocked, damaged or fails to operate	5	20
45	**Household, Recycling and Organic Waste Storage** Failure to comply with any of the waste collection requirements	3	20
46.1	**Hard Waste Collection** Failure to comply with the **hard waste** collection requirements	5	20
46.2	Deposit or allow to deposit hard waste contrary to the directions of **Council**	5	20

Attachment 3 - Boroondara - Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
47.1	**Bulk Rubbish and Trade Waste Storage** Without a **permit** place **bulk rubbish container** or any other thing on **Council-controlled land** or **road**,	5	20
47.2	Fail to comply with the correct sanitary conditions for a **bulk rubbish container**	5	20
47.3	Fail to ensure that the area which a **permit** related to **bulk rubbish container** is kept in accordance with **Council** direction	5	20
48	**Screening Bins and Containers** Fail to meet the conditions for **approved waste receptacles** or **bulk rubbish container**	5	20
49.1.1	**Noise** Leave the engine of a stationary **heavy vehicle** running	5	20
49.1.2	Without a **permit** deliver outside of hours	5	20
49.2	Without a **permit** carry out or allow to be carried out **non-residential building work** outside of hours	5	20
51.1	**Keeping Domestic Animals** Without a **permit** keeps excessive **animals**	2	20
51.2	Without a **permit** must not keep any **animal** that is not specified in table 51.5.	2	20
51.4	Without a **permit** must not keep any **animal** on **vacant land**.	2	20
51.7	Fails to comply with the conditions where **animals** are kept	2	20

Attachment 3 - Boroondara - Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
51.7.1	Must ensure any **animals** kept on **private land** are contained and prevented from escape	2	20
52.	**Treatment of Animals** Poultry kept contrary to requirements	2	20
53	**Nuisances** **Animals** or birds causing **nuisance**	2	20
54.1	**Dogs** Carry receptacle or receptacles suitable for removal of excrement	2	20
54.2	Allow excrement to remain on **Council-controlled land**	2	20

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:)
)
)

Mayor/Councillor

Chief Executive Officer

19.12.19

Date

Attachment 4 - Maribyrnong - General-Purposes-Local-Law-2015

Maribyrnong
CITY COUNCIL

GENERAL PURPOSES LOCAL LAW

2015

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Attachment 4 - Maribyrnong - General-Purposes-Local-Law-2015

MARIBYRNONG CITY COUNCIL

GENERAL PURPOSES LOCAL LAW 2015

PART 1

PRELIMINARY

1 Title

This is the General Purposes Local Law 2015 of the Maribyrnong City Council.

2 Purposes of the Local Law

This Local Law is made for the purposes of providing for the peace, order and good government of the municipal district by managing, regulating and controlling activities and uses on any land to:

(a) promote a physical and social environment free from hazards to health or public safety, in which the residents of the municipal district can enjoy a quality of life that meets the general expectations of the community;

(b) prevent and suppress nuisances which may adversely affect the enjoyment of life within the municipal district or the health, safety and welfare of persons within the municipal district;

(c) prohibit, regulate and control activities or behaviour which may be dangerous, or detrimental to the quality of life and the environment of the municipal district or which could compromise public safety, Council land or assets;

(d) provide processes and requirements that complement Council Policies, guidelines or other documents incorporated by reference in the Local Law; and

(e) provide for the administration and enforcement of the Local Law.

3 Authorising Provision

This Local Law is made under section 111(1) of the *Local Government Act 1989*.

4 Operation Date

This Local Law operates from *18 November 2015*.

5 Revocation

This Local Law ceases to operate on *17 November 2025*.

6 Application

(1) This Local Law applies and has operation throughout the whole of the Municipal District.

(2) This Local Law does not apply where any act or thing regulated by it is authorised by any Act, other subordinate legislation or the Planning Scheme.

(3) The Council may declare or designate areas for the purposes of this Local Law which prohibits or limits the places where specific uses or activities may occur.

(4) Where the Council declares or designates areas under this Local Law it must ensure that those declared or designated areas are included in:

(a) the Local Laws Register;

(b) identified on maps or by a geographic description and are published on the Council's website and available in hard copy at the Council's office.

(5) This Local Law incorporates by reference documents containing Council Policy, standards or guidelines that apply to specific uses or activities which are intended to assist in achieving the objectives of this Local Law.

(6) It is intended that where an incorporated document is applied to a use or activity a person must comply with any or all of the requirements specified for that use or activity.

7 Interpretation

(1) Unless the contrary intention appears in this Local Law, the following words are defined as indicated and are in the singular:

WORDS	MEANING
The Act	The *Local Government Act 1989*.
Alcohol	A beverage intended or used for human consumption, which has an alcoholic content.
Alcohol Restriction Area	An area declared by Council where the consumption of alcohol or the possession of alcohol in an open container is prohibited.
Animal	Includes every species of quadruped, every species of bird and reptile.
Authorised Officer	Any person appointed by the Council to be an Authorised Officer under section 224 of *the Act*.
Builder	A person who has been nominated as the builder on the building permit, and if no such application has been made, the person in charge of the building work being carried out.

Builder's Refuse	Includes any potential stormwater pollutant, solid or liquid domestic or commercial waste, debris or rubbish, and without limiting the generality of the above, includes any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with building work.
Building	Includes any structure or building, whether temporary or permanent, or any part of such building or structure.
Building site	Any land on which building work is carried out.
Building work	Any work for which a building permit has been issued for the construction, demolition, renovation, alteration, removal or relocation of any building or structure and includes any excavations, the delivery of any machinery, equipment or building materials to the building site or any preparatory or ancillary work on the building site.
Bulk rubbish container	A bin, skip or other container used for the deposit of waste and includes those with lids, wheels or mobile skips, but excludes a bin provided by Council as part of its waste collection service.
Camp	includes erecting or occupying a tent, other structure or a vehicle for temporary accommodation.
Caravan	Includes a caravan, motorhome, camper van, mobile home or moveable dwelling.
Chief Executive Officer	The person appointed as the Chief Executive Officer of the Council.
Clothing recycling bin	A bin or similar structure used for the collection of used clothing (whether or not it is used for the collection of other goods).
Container	A suitable rubbish container capable of containing debris and other waste within the building site.
Contaminated material	Any material designated by Council as unacceptable for depositing in a bin provided by Council as part of its waste collection service and published on Council's website or in other material provided to residents.
The Council	The Maribyrnong City Council.
Council land	Any land vested in or under the control of the Council, including reserves, watercourses, reservations and the like, but excludes a road.
Dwelling	Any building or portion of a building which is used, intended, adapted or designed for use for living.

Emergency service	A body or corporation deemed to be an "emergency service" by the Council or an Authorised Officer from time to time.
Frontage	A boundary between a property and an adjoining road. If a property adjoins more than one road, the frontage is the boundary between the property and the road to which the largest building on the property fronts.
Graffiti	Is any unauthorised drawing or writing.
Heavy vehicle	Has the same meaning as clause 200 of the *Road Safety (Road Rules) 2009*.
Incinerator	A structure, device or piece of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and which is not: (a) Enclosed in any building; (b) A barbecue; or (c) Licensed under the provisions of the *Environment Protection Act 1970*.
Litter	Has the same meaning as the *Environment Protection Act 1970*.
Litter device	An apparatus, which can be used for the purpose of removing animal excrement and includes a paper or plastic bag.
Minor building work	Building work valued at less than $5,000 but excludes demolition and removal of buildings and structures (regardless of value).
Municipal District	The Municipal District of the Council.
Multi residential dwelling	More than I dwelling erected on 1 parcel of land.
Noxious weeds	Has the same meaning as the *Catchment and Land Protection Act 1994*.
Owner	Has the same meaning as section 3 of *the Act*.
Owner Animal	Has the same meaning as in the *Domestic Animals Act 1994*.
Owner Vehicle	The person who has the immediate right to possession of the vehicle.
Penalty unit	Has the same meaning as the *Sentencing Act 1991*.
Poultry	Includes ducks, chickens, geese, peacocks, pheasants, turkeys and guinea fowl of any age.
Planning Scheme	Is the Maribyrnong Planning Scheme.

Premises	Includes the whole or part of any land, building or any building under construction.
Property	Any land, building or dwelling in separate ownership or separate occupation within the Municipal District.
Public body	Any government department or body established for a public purpose by or under an Act of the Parliament of Victoria, any other State or Territory of the Commonwealth, or the Commonwealth, and includes any water authority established by or under such Acts.
Public place	Has the same meaning as the *Summary Offences Act 1966*.
Recreational vehicle	Any mini bike, trail bike, motor bike, motor scooter, go-cart or other vehicle propelled by a motor which is normally used for recreational purposes, but does not include a motorised wheelchair.
Recyclable goods	Any substances or articles declared by the Council or an Authorised Officer to be "recyclable goods" for the purposes of this Local Law from time to time.
Reptile	A snake, lizard, frog, turtle or tortoise of any age.
Residential Zone	Is land zoned residential under the City of Maribyrnong Planning Scheme.
Road	Has the same meaning as section 3 of *the Act*.
Rooster	The male specie of domestic fowl.
Service authority	A body or corporation deemed to be a "service authority" by the Council or an Authorised Officer from time to time.
Shopping trolley	A wheeled cart supplied by a retailer to enable customers to transport goods purchased from the retailer from one place to another.
Sign	Any placard, board, sign, card or banner, whether portable or affixed or attached to any land, building, vehicle or trailer which: (a) Provides information about the occupier of the land or building, or a business or industry; (b) Advertises goods, services, an event or a competition; or (c) Provides directions to the location of property or land, which is available for pre-sale inspection.

Solicit	Does not include the displaying of goods in a shop window, which are for sale at that shop, or the displaying of any kind of advertising material in a shop window.
Toy Vehicle	Means: (a) A vehicle designed to be propelled by human power and includes a scooter, skate board, roller skates, roller blades and like toys; and (b) A remote control aeroplane or vehicle.
Unsightly building	A building which is kept in manner that is detrimental to the general amenity of the neighbourhood and includes a building which is defaced by graffiti.
Unsightly land	Land which is unkempt and is detrimental to the general amenity of the neighbourhood and includes land which: (a) harbours unconstrained rubbish and litter or disused excavation or waste material; and (b) contains non-native grass, noxious weeds, weeds and undergrowth which exceeds a height of 150mm.
Vehicle	Any form of conveyance propelled or drawn by human, animal, mechanical, electrical or other power, and includes a motorcar, a caravan, a motorbike, a trailer, a tractor, a recreational vehicle, and all goods and chattels attached to a form of conveyance.
Waste	All refuse or rubbish produced or accumulated in or on any property, but does not include: (a) slops or liquid wastes; (b) waste generated from building work including but not limited to bricks, concrete, masonry, dirt, soil, sand and timber; (c) waste generated from the restoration, repair or servicing of motor vehicles; (d) ash, unless it is: (i) cold; (ii) dampened; and (iii) wrapped or contained in a manner which prevents its escape; (e) trade waste;

(f) oil, paints, solvents, herbicides and similar chemical substances (except paint residue contained in a sealed container);

(g) hazardous chemicals;

(h) volatile, explosive or flammable substances;

(i) any waste that cannot be contained in an approved garbage bin due to its size, shape, nature or volume;

(j) medical, sharps, infectious or veterinary waste;

(k) human or animal waste;

(l) nightsoil except that disposable nappies may be placed in securely wrapped impervious material; or

(m) dust or fire particle waste, unless cleanly and securely wrapped.

(n) Any other substance declared by the Council or an Authorised Officer not to constitute waste for the purposes of this Local Law from time to time.

(2) The provisions of the Interpretation of *Legislation Act 1984* will be applied in aid of interpreting this Local Law and in facilitating the achievement of the objectives of the Local Law.

(3) Unless the context requires otherwise, a reference to "the Council" in this Local Law includes a reference to an Authorised Officer who has been delegated the power to administer and enforce this Local Law and to exercise any discretion when required by this Local Law.

PART 2

COUNCIL LAND

8 Council Land and Roads – requirements applying to use

(1) A person using Council land or a road must comply with:

(a) any signs or conditions of entry or use;

(b) any conditions of membership that the Council has applied to the use; or

(c) any lawful direction of an Authorised Officer or a person in charge of a facility on Council land.

Penalty: 5 Penalty Units

(2) A person using Council land or a road must not behave in a way or engage in any activity that could risk or endanger, cause harm or injury[1] to any other person or which interferes with any other person's reasonable enjoyment or use of that land or road.

Penalty: 20 Penalty Units

(3) A person must not:

(a) carry out any work, use or activity; or

(b) allow any tree or vegetation or other condition on land owned or occupied by him or her –

to interfere with, cause damage to or create a risk to anything on Council land or a road.

Penalty: 5 Penalty Units

(4) The restrictions in sub-clause (3) do not apply to a member of Council staff, a person contracted by the Council, a member of a public authority or an employee of a utility carrying out their duties.

9 Activities which may be permitted

A person on Council land must not, without a permit:

(a) fly or permit to be flown any remote controlled toy or model aeroplane;

(b) drive a vehicle or ride a horse except for:

(i) parking a vehicle in a parking area which is identified by signs for that purpose;

(ii) wheeling a bicycle, pram, baby or child carriage, wheelchair or child's toy along a footpath: or

(iii) driving a vehicle or riding a horse on a road or bicycle path in accordance with any applicable legislation;

[1] For example: a person using a forklift to load or unload goods from a vehicle on a road or Council land may potentially injure a person or cause damage to Council land or roads.

(c) light a fire or permit any fire to remain alight except in a barbecue provided by the Council;

(d) play, organise, practice or engage in any competitive sport or game;

(e) conduct or celebrate a wedding;

(f) hold any circus, carnival or fair or event;

(g) organise, hold or participate in any rally, procession, demonstration or other public gathering; or

(h) make a collection of money,

(i) place or store anything.

Penalty: 20 penalty units

10 Camping on Council Land or Roads

A person must not, without a permit:

(a) camp; or

(b) occupy a-

(i) caravan;

(ii) tent or similar structure; or

(iii) a vehicle -

on Council land or road.

Penalty: 10 penalty units

11 Busking

A person must not, without a permit, on any road or Council land -

(a) sound or play any musical instrument;

(b) sing;

(c) harangue or recite;

(d) perform conjuring tricks;

(e) juggle;

(f) dance;

(g) engage in miming or puppetry;

(h) perform like activities; or

(i) footpath art.

Penalty: 5 penalty units

PART 3

CONSUMPTION OF ALCOHOL IN PUBLIC PLACES

12 Declaration of alcohol restriction areas

(1) The Council may declare an area of the municipal district to be an alcohol restriction area but the Council must give public notice of the proposed declaration before a declaration is made.

(2) Following a declaration made by Council under subclause (1), the Council must ensure that signs are erected which designates an area as an alcohol restriction area.

(3) A declaration may define an alcohol restriction area by:

(a) description; or

(b) plan or map.

(4) An alcohol restriction area may be defined to include areas, which are not contiguous one with another.

(5) A declaration may be made to operate:

(a) at specified periods of the day;

(b) at specified periods of the year;

(c) in respect of specified types of alcoholic beverages.

13 Offence to consume or possess alcohol in an alcohol restriction area

Unless in accordance with a permit, a person must not on a road or Council land or in or on a stationary vehicle on a road or in or at or on any public place within an alcohol restriction area:

(a) consume alcohol; or

(b) be in possession of alcohol, other than in a sealed container.

Penalty: 20 penalty units

14 Exemption to Clause 12

Clause 12(1) does not apply to:

(a) a function or activity:

- on a road;
- In, at or on any Council land; or
- in or on a stationary vehicle on a road or in or at or on any Council land

in respect of which Council has given its written consent for alcohol to be consumed or for a person to have any alcohol in their possession or control;

(b) authorised or licensed premises under the Liquor Control Reform Act 1998; or

(c) any function or activity in on or at any part of any Council land that:

- has been leased to a person carrying on the function or activity; or
- is subject to a specific permission that permits a function or activity by the person or body having the care, control or management of that part of any Council land.

15 Authorised Officer Directions

An Authorised Officer may:

(a) direct that a receptacle containing alcohol in the possession of a person be sealed or emptied if the person is to remain in a public place, in which case the person possessing the receptacle must comply with the direction;

(b) seize and immediately dispose of the receptacle and may direct the person in possession of the receptacle to vacate the public place.

Penalty: 20 penalty units

PART 4

USE OF LAND

16 Standards applying to Land and Buildings

(1) A person must not allow or permit land of which he or she is the owner or occupier to be kept in a manner, which is:

(a) unsightly;

(b) dangerous;

(c) a nuisance; or

(d) detrimental to the general amenity of the neighbourhood in which it is located.

Penalty: 20 penalty units

(2) The owner or occupier of any land must not permit anything on that land, or a building or a fence on the land that abuts a road to –

(a) be kept in a manner which is unsightly or ruinous or detrimental to the general amenity of the neighbourhood in which it is located;

(b) become unsightly, derelict or detrimental to the general amenity of the neighbourhood in which it is located; or

(c) be a risk or a nuisance[2] to adjoining land or Council land.

Penalty: 20 penalty units

17 Circuses, Carnivals and Festivals

(1) A person must not, without a permit, hold or permit to be held a –

(a) circus;

(b) carnival; or

(c) festival –

on any land.

Penalty: 20 penalty units

(2) In deciding whether or not to grant a permit under subclause (1), the Council may consider the requirements of:

(a) a Good Neighbour Code of Practice for a Circus or a Carnival 1997;

(b) The Code of Practice for the Public Display and Exhibition of Animals 2001; or

(c) any other matter relevant to the circumstances of the application.

[2] For example: stormwater from one property flowing on to another property because it is not being directed into the property's legal point of discharge.

(3) A person must not, without a license agreement, hold or permit to be held a –

(a) circus;

(b) carnival; or

(c) festival –

on Council land.

Penalty: 20 penalty units

PART 5

CLOTHING RECYCLING BINS

18 Clothing Recycling Bins

A person must not place a clothing recycling bin on a road or Council land.

Penalty: 20 penalty units

PART 6

CAMPING AND CARAVANS

19 Camping – responsibility of land owner or occupier

The owner or occupier of any land must not, without a permit, allow any person to –

(a) occupy; or

(b) place or cause to be placed for the purposes of occupation

any –

(i) caravan or motor home;

(ii) shipping container;

(iii) tent or like structure; or

(iv) a vehicle –

on any land, unless the occupation of –

(i) caravans;

(ii) shipping container;

(iii) tent or like structure; or

(iv) a vehicle–

is permitted under the Planning Scheme.

Penalty: 20 penalty units

20 Camping – responsibility of a camper

A person must not, without a permit, occupy, or cause to be occupied any caravan, tent, marquee, or like structure on any land, unless the occupation of the caravan, tent, marquee, or like structure on the land is permitted under the Planning Scheme.

Penalty: 10 penalty units

PART 7

NUMBERING PROPERTIES

21 Numbering

A person must not:

(a) number;

(b) display a number in respect to; or

(c) use a number to identify

premises unless the number has been allocated to the premises or approved for use in relation to the premises by Council.

Penalty: 5 penalty units

22 Maintaining Numbering

If Council has allocated a number to premises, the owner or occupier of those premises must:

(a) mark and keep marked the premises with the number allocated by Council; and

(b) renew or replace the number as often as may be necessary.

Penalty: 5 penalty units

23 Condition of Numbering

For the purposes of clause 22 the number must be:

(a) of sufficient size;

(b) displayed accurately and completely;

(c) in good repair;

(d) distinct from its background;

(e) free from obstruction; and

(f) clearly read under all normal lighting conditions from the road immediately adjacent to the front boundary of the premises.

Penalty: 5 penalty units

PART 8

SIGNS, GOODS AND FURNITURE

24 Signs, Goods and Furniture

(1) A person must not, without a permit –

(a) display or permit to be displayed any goods on a road or Council land;

(b) place or allow to be placed a sign on a road or Council land;

(c) place or allow to be placed a seat, umbrella, table, chair or other furniture or equipment on a road or Council land;

(d) place or affix any letter, figure, item, poster, sign or advertisement on any building, fence, or other property under the control of Council or any statutory or government authority -

unless permitted to do so under the Planning Scheme.

Penalty: 20 penalty units

(2) In addition to complying with any conditions of a permit, a person placing any signs, goods or furniture on a road or Council land must comply with any requirements in the Council's current Commercial Street Furniture Guidelines.

Penalty: 20 penalty units

(3) If an advertising sign is placed in breach of subclause (1) the following are each guilty of an offence whether or not the person who placed the sign is identified or prosecuted:

(a) the person who is the owner of the premises, property, business, event or activity to which the advertising sign relates;

(b) the person who has management and control of premises, property, business, event or activity to which the advertising sign relates;

(c) the person who is a promoter of the premises, property, business, event or activity to which the advertising sign relates;

(d) the person who printed the advertising sign or whose name is on the advertising sign as the printer;

(e) the person who commissioned the printing of the advertising sign; and

(f) the person who is responsible for placing, siting or distributing the advertising sign including the person who engages another whether as an employee or agent to place, site or distribute the advertising sign.

(4) A person who has placed, permitted to be placed, displayed or permitted to be displayed –

(a) goods;

(b) a sign; or

(c) a seat, umbrella, table, chair or other furniture –

(d) letter, figure, item, poster, sign or advertisement on any building, fence or Council land, whether with or without a permit issued under subclause (1), must move or remove the –

(i) goods;

(ii) sign; or

(iii) seat, umbrella, table, chair or other furniture-

(e) letter, figure, item, poster, sign or advertisement if directed to do so by:

(i) an Authorised Officer;

(ii) a member of the Victoria Police; or

(iii) a member of an emergency service.

Penalty: 20 penalty units

PART 9

SALE OF GOODS, STREET COLLECTIONS AND SPRUIKING

25 Persons Selling Goods

(1) Unless permitted under the Planning Scheme a person must not, without a permit, sell or display any goods from:

(a) a stall;

(b) a vehicle;

(c) a caravan;

(d) a trailer;

(e) a barrow;

(f) a box;

(g) a crate;

(h) a bag; or

(i) any other receptacle –

standing or placed on:

(j) a road;

(k) Council land;

(l) vacant land; or

(m) land which is not ordinarily occupied by the person.

Penalty: 20 penalty units

(2) A person must not without a permit sell any goods carried about on the person or on any animal or vehicle:

(a) on a road; or

(b) on Council land.

Penalty: 20 penalty units

(3) A person who undertakes a use or activity under this Part must ensure that the use or activity does not impact detrimentally on people or property in the neighbourhood because of:

(a) unreasonable or excessive noise including from noise caused by people using the use or activity, amplified music or announcements, refrigeration, air conditioning or heating equipment or any other mechanical equipment;

(b) smell from waste associated with the use or activity; or

(c) litter or lack of cleanliness associated with the use or activity.

Penalty: 20 penalty units

26 Street Collection and Distribution

A person must not, without a permit, solicit, distribute or collect –

(a) on a road;

(b) on Council land;

(c) on a vehicle; or

(d) from door to door –

any gifts, pamphlets, flyers or subscriptions for any purpose or cause or authorise another person to do so.

Penalty: 20 penalty units

27 Spruiking

A person must not, without a permit –

(a) on a road or Council land; or

(b) from any land adjacent to a road or Council land to such persons on the road or Council land –

spruik, tout or solicit the sale of any goods or services.

Penalty: 20 penalty units

PART 10

BUILDING SITES

28 Permit Requirements for Building Works

(1) Where it is proposed to undertake building work which requires a building permit, the owner of land or the owner's builder must:

(a) give Council 7 days' notice of the intention to commence building works; and

(b) must obtain an Asset Protection Permit before the commencement of the building works; and

(c) must pay the Council the bond determined under clause 32.

Penalty: 20 penalty units

(2) The owner of the land or the owner's builder must not commence any building work unless the required permits are obtained.3

Penalty: 20 penalty units

(3) If the owner of the land or the owner's builder fails to obtain an Asset Protection Permit, it will be deemed that there was no prior damage to any part of the adjoining road, Council land or infrastructure before building works commenced on the land.

29 Requirements of an Asset Protection Permit

An Asset Protection Permit may require any or all of the following conditions be met prior to the commencement of any building works.

(a) appropriate measures to mitigate risk or damage to an existing vehicle crossing, kerb and channel or other Council infrastructure in the road;

(b) appropriate measures to mitigate risk or damage to Council drains from stormwater, waste or other materials coming from the building site;

(c) protection zones for nature strip trees and infrastructure;

(d) clear access for footpath pedestrians; and

(e) any other conditions considered necessary to protect Council's assets and the amenity of the neighbourhood.

Penalty 10 Penalty Units

[3] A vehicle crossing permit may be required under clause 38, a road opening permit may be required under clause 33 or a permit to place an obstruction on a road may be required under clause 37. If these permits are not required prior to commencing building work, it may become necessary to obtain such a permit during progress of the building work.

30 General requirements applying to Building Sites

(1) Where any building work (other than minor building work) is being carried out on any land, the owner or the owner's builder must:

(a) erect a temporary fence:

(i) that complies with any applicable building standards:

(ii) which must be maintained for the duration of the building works;

(iii) has only one entry point; and

(iv) is constructed within the boundaries of the building site;

(b) display an identification sign on the building site containing the information required by the Building Regulations 2006;

(c) provide appropriate containers for all litter, rubbish and other waste on the building site which must:

(i) be maintained so that litter, rubbish and other waste placed in it is not overflowing;

(ii) be emptied as often as necessary to ensure that litter and rubbish do not escape from the building site: and

(iii) if necessary, ensure that a replacement container is provided while a container is being emptied;

(d) provide appropriate sanitary facilities;

(e) ensure that dust, litter and rubbish, building materials or runoff from the building site does not escape from the building site; and

(f) ensure that a copy of the Asset Protection Permit is kept on the building site and is produced to an Authorised Officer when requested to do so.

Penalty: 20 penalty units

(2) Where any building work is being carried out on any land, the owner or the owner's builder must manage the building site to ensure that:

(a) building works are contained entirely within the building site;

(b) building materials or equipment used for building works are kept on the building site and not placed on a road or Council land unless it is permitted under the Asset Protection Permit or any other permit issued by the Council; and [4]

(c) any temporary structures are secured or braced so that they do not collapse or are blown from the building site onto a road, Council land or adjoining properties.

Penalty: 20 penalty units

[4] For example, clause 9(i) requires a permit to place or store anything on Council land or clause 33 requires a permit to occupy a road for works.

(3) Except in the case of an emergency or in accordance with a permit, an owner, the owner's builder or the owner's agent must ensure that no building works are undertaken outside of the following hours:

(a) 7am and 8pm – Mondays to Fridays

(b) 9am and 6pm – Saturdays.

Penalty: 20 Penalty Units

(4) An owner or occupier of land is exempt from subclause (3) and may undertake building works on a Sunday between 9am and 6pm on premises that they are living in.[5]

31 Removal of Builders' Rubbish on completion of building works

(a) On any land where building work is being or has been carried out, the owner or the owner's builder must remove and lawfully dispose of all rubbish referred to in clause 30(1)(c) within 7 days of completion of the building work an occupancy permit being issued, whichever occurs last.

(b) The driver of any vehicle involved in placing or removing a builders' rubbish container must access the building site by way of a temporary vehicle crossing unless otherwise permitted by Council and in accordance with that permission.

Penalty: 20 penalty units

32 Requirement for Bond

(1) If in the opinion of Council or an Authorised Officer it is likely that any Council asset may be damaged in the course of any building work for which a building permit has been obtained, the owner or occupier of the land must pay a bond to Council.

(2) The amount of the bond under subclause (1) must be determined by Council or the Authorised Officer having regard to the probable cost of repairing any damage that is likely to be caused.

(3) The owner or occupier of land must repair any damage to Council assets that occurs as a result of the building works for which a permit has been granted.

(4) Any bond or part of a bond paid to Council under subclause (1) may be retained by Council to meet the cost of repairing any damage which an owner or occupier has failed to repair in accordance with his or her obligations under subclause (3).

(5) For the purpose of subclause (3) Council or an Authorised Officer may determine the cost of repairs to Council assets.

(6) Council must refund any bond or part of a bond paid to it under subclause (1) if Council is satisfied that:

(a) there has been no damage to Council assets as a consequence of the building works; or

(b) any such damage has been repaired in accordance with subclause (3) to the Council's satisfaction.

[5] This exception does not negate the need for owner /occupiers to comply with the prescribed times in the Environment Protection (Residential Noise) Regulations 2008.

PART 11

HAZARDS ON ROADS

33 Occupation of Roads for Works

A person must not, without a permit:

(a) occupy or fence off;

(b) erect a hoarding on;

(c) use a mobile crane or travel tower for any work on;

(d) make a hole or excavation in;

(e) fill a hole or excavation in;

(f) deposit building materials in –

any road or part of a road under the control of the Council.

Penalty: 20 penalty units

34 Spoil on Roads

(1) A person must not –

(a) drive; or

(b) permit or cause to be driven a vehicle on a road;

unless the wheels and tyres of the vehicle are free from soil, earth, clay or like substances.

Penalty: 20 penalty units

(2) A person must not permit any soil, earth, mud, clay, cement slurry, liquid waste or like substance to fall or escape onto a road from any vehicle which he or she is driving.

Penalty: 20 penalty units

(3) A person must not permit any grease, oil, mud, clay, cement slurry or like substance to run off a motor vehicle he or she is cleaning onto a road, or into a drain.

Penalty: 20 penalty units

35 Shopping Trolleys

(1) A person must not leave a shopping trolley in any area except in an area designated for the return of shopping trolleys.

Penalty: 5 Penalty Units

(2) A retailer who provides more than 15 trolleys shopping trolleys for use by customers must:

(a) implement effective trolley management systems[6] to ensure that trolleys are not taken from the retailer's land[7]; and

(b) identify on each trolley the name of the corporate body that the trolley belongs to and the address of the store that has provided it for use by customers.

Penalty: 10 Penalty Units

(3) If a shopping trolley is left on any land, road or public place and impounded by Council, the corporate body identified on the trolley will for the purposes of clause 70, be considered to be the owner of the trolley and will be served with an Impounding Notice.

(4) If an impounded trolley has not been collected within 10 days of the date on the Impounding Notice, the Council may, in addition to the impounding fee, issue an infringement notice for each trolley that has been impounded.

36 Overhanging Obstructions

An owner or occupier of land must not permit any sign, tree, shrub or hedge located on the land to overhang the boundary of the land and:

(a) obstruct the clear view of the driver of any motor vehicle travelling along the road abutting the land;

(b) encroach upon any adjacent road or Council land; or

(c) otherwise prejudice the safe and convenient use of any road abutting the land.

Penalty: 20 penalty units

37 Obstructions on Roads and Council Land

(1) A person must not, without a permit:

(a) leave or permit to be left a bulk rubbish container on a road or Council land;

(b) leave or place any other thing that encroaches on or obstructs the free use of a road or Council land or that reduces the breadth or confines the limit of a road or Council land; or

(c) landscape a nature strip -

unless permitted to do so under any Act, regulation or local law.

Penalty: 20 penalty units

[6] Effective trolley management systems may include coin or token operated trolleys, radio signal technology on trolleys, electronic controls around boundaries or collection services shared between retailers in the municipality intended to ensure that trolleys remain on the retailer's land.
[7] "Retailer's land" may vary depending on the arrangements. For instance, a retailer may own or occupy a separate site or may have arrangements in place where a retailer located in a shopping centre has provision made on land associated with the centre for trolley return.

(2) This clause does not apply to the works or activities of a service authority.

(3) In addition to complying with any conditions of a permit a person landscaping a footpath under subclause (1)(c) must comply with any requirements in the Council's current Policy on Landscaping Naturestrips.

PART 12

VEHICLE CROSSINGS

38 Vehicle Crossings

(1) A person must not without a Vehicle Crossing Permit construct a temporary or permanent vehicle crossing.

Penalty: 20 penalty units

(2) The Council or an Authorised Officer may require –

(a) the construction of a temporary or permanent vehicle crossing; or

(b) the repair or reconstruction of a vehicle crossing –

by the owner or occupier of any abutting allotment.

(3) The Council or an Authorised Officer may by notice in writing require the removal of any vehicle crossing and the reinstatement of any kerb, drain, footpath, nature strip or other part of a road if in the opinion of the Council or an Authorised Officer, the vehicle crossing is redundant or has been constructed in breach of subclause (1) or the conditions of a permit issued under subclause (1).

Penalty: 20 penalty units

(4) Any work in respect of a –

(a) road;

(b) kerb;

(c) drain; or

(d) vehicle crossing

performed under this Part must be performed to the satisfaction of the Council or an Authorised Officer.

PART 13

MOTOR VEHICLES

39 Heavy Vehicles

(1) The Council or an Authorised Officer may erect signs indicating any prohibition or restriction on the use of a road by any motor vehicle of or over a specified size or weight.

(2) An owner or driver of a heavy vehicle must not drive or permit or cause to be driven a motor vehicle on a road where a sign has been erected under subclause (1) unless a permit has been obtained from Council.

Penalty: 20 penalty units

(3) Unless permitted under the Planning Scheme, the owner or occupier of any land must not without a permit –

(a) keep; or

(b) allow to be kept –

a heavy vehicle on any land in a residential zone.

Penalty: 20 penalty units

40 Repair and Display of Vehicles

(1) A person must not in relation to a vehicle:

(a) paint;

(b) service;

(c) wash or carry out maintenance on it except to enable it to be removed; or

(d) repair or dismantle it;

on a road or Council land.

Penalty: 20 penalty units

(2) A person in the course of conducting a business for the sale or hire of vehicles must not without a permit display the vehicles on a road or Council land.

Penalty: 20 penalty units

PART 14

RECREATIONAL AND TOY VEHICLES

41 Use of Recreational Vehicles

(1) A person must not without a permit –

(a) use; or

(b) permit a person under his or her care or control to use –

a recreational vehicle on any land except a road.

Penalty: 10 penalty units

(2) A person must not:

(a) use; or

(b) permit a person under his or her care or control to use –

a recreational vehicle on any land in a manner which:

(c) causes a nuisance;

(d) causes damage to any property or injury to any person; or

(e) in the opinion of an Authorised Officer is likely to cause damage to any property or injury to any person.

Penalty: 10 penalty units

(3) The owner or occupier of land must not without a permit allow a person to use a recreational vehicle on land owned or occupied by him or her.

Penalty: 10 penalty units

42 Toy Vehicles and Bicycles

A person must not in a public place use, place or leave a toy vehicle or bicycle or a remote controlled vehicle or toy in such a manner as to interfere with the passage of or cause a nuisance or danger to any person on or using the public place.

Penalty: 10 penalty units

PART 15

ANIMALS AND BIRDS

43 Application

This Part does not apply to any land –

(a) upon which an animal hospital or veterinary practice is located; or

(b) if the use of the land for this purpose is permitted under a Planning Scheme applicable to the land.

In this Part any reference to "poultry" does not include a reference to "rooster".

44 Keeping Animals - numbers and types

(1) Unless permitted under a Planning Scheme applicable to the property, a person must not without a permit keep or allow to be kept on any land, any more of each species or group of animals than is stated in the following Table:

Type of Animal	Maximum allowed on land	Maximum allowed - multi residential dwelling
Birds		
Budgerigars, canaries and finches	25	5
Pigeons	10	Not Permitted
Racing pigeons	30	Not Permitted
Poultry (except roosters)	10	Not Permitted
Dogs (over 3 months old)	3	2
Dogs (under (3) months old)	4	4
Cats (over (3) months old)	3	2
Cats (under (3) months old)	4	4
Reptiles	10	5
Ferrets, guinea pigs, rabbits or mice	8	2

Penalty: 20 penalty units

(2) A person must not keep a rooster on any land in the municipal district.

Penalty: 10 penalty units

45 Wasps and Bees

An owner or occupier of a property who has detected:

(a) a wasp or wasp nest on that property; or

(b) bee swarm on that property -

must not allow that wasp nest or bee swarm to remain on the property and must remove that wasp nest or bee swarm from the property as soon as practicable after detection.

Penalty: 2.5 penalty units

46 Animal Shelters

(1) Any land or structure used for housing an animal or poultry must be located and maintained:

(a) in a clean, inoffensive and sanitary condition;

(b) so as not to cause any nuisance; and

(c) to the satisfaction of an Authorised Officer.

Penalty: 20 penalty units

(2) The occupier of land on which an animal or poultry is kept must ensure that:

(a) Poultry is not kept in or has access to the front yard of any property;

(b) Any structure[8] used for housing an animal or poultry is not located within;

(i) 18 metres from any road to which the land has a frontage;

(ii) 3 metres from any other road;

(c) the ground surrounding the place where the animal or poultry is kept is free from:

(i) weeds;

(ii) refuse;

(iii) rubbish; and

(iv) other material harbouring, or which may harbour, rats or vermin;

(d) all food for consumption by an animal or poultry is kept or stored in a vermin and fly-proof container;

(e) all manure, excrement, refuse or rubbish produced or accumulated by the animal or poultry is, as soon after the production or accumulation as is reasonably practicable, placed in a container:

(i) which is sanitary, impervious and vermin and fly- proof; and

(ii) the contents of which are removed and disposed of at least once every week, or at such other intervals as an Authorised Officer considers necessary.

Penalty: 20 penalty units

[8] This includes any pen, compound or yard attached to the poultry house or pigeon loft.

47 Animal Excrement

(1) A person in charge of an animal must not allow any part of the animal's excrement to remain on any road, public place or Council land.

Penalty: 20 penalty units

(2) A person in charge of an animal that excretes on a road, public place or Council land must immediately collect and dispose of the excrement so as not to cause a nuisance to any other person.

Penalty: 20 penalty units

(3) Any person in charge of an animal on any road, Council land or public place must carry a litter device and be able to produce this litter device on request by an Authorised Officer.

Penalty: 20 penalty units

48 Animal Noise

(1) An owner or occupier of premises must take all steps necessary to prevent any:

(a) animal making a noise; or

(b) noise caused by an animal being emitted from the premises so as to be:

(i) unreasonable; or

(ii) objectionable or adversely affecting the amenity of a person on other premises.

Penalty: 20 penalty units

(2) For the purposes of subclause (1), in assessing whether noise is unreasonable, objectionable or adversely affecting amenity, regard must be had to:

(a) its volume, intensity and duration; and

(b) the time, place and other circumstances in which it is emitted.

PART 16

WASTE DISPOSAL

49 Waste collection services provided by Council

(1) The occupier of land to which the Council provides a waste collection services must:

(a) use only the bins provided or approved by Council for the waste collection service;

(b) deposit only household waste into the bin provided by Council for household waste, green waste into the bin provided for green waste and recyclable materials into the recyclable materials bin;

(c) not contaminate a bin by placing contaminated materials in it or waste that is not the type of waste the bin has been provided for;

(d) ensure that waste placed in a bin:

(i) is wrapped in any manner necessary to render it inoffensive, prevent the protrusion of sharp objects and prevent waste being caught by wind while the bin is being emptied; and

(ii) is contained in any other manner approved by the Council or an Authorised Officer;

(e) place a bin out for collection which is positioned on the nature strip or footpath adjacent to the kerb or in any other manner directed by the Council or an Authorised Officer from time to time; and

(f) upon being directed to do so by the Council or an Authorised Officer, remove or cause to be removed from the bin any material deposited in contravention of this provision.

Penalty: 20 penalty units

(2) The occupier of land must not:

(a) place more than 1 household waste bin, 1 green waste bin or 1 recyclable goods bin out for collection without the consent of the Council;

(b) place a bin out for collection more than 24 hours before collection day and must return the bin to the land to which it was provided within 24 hours following collection;

(c) place a bin out for collection that has a gross weight of more than 70 kilograms or more than the maximum gross weight determined by the Council from time to time;

(d) place any waste in a bin that would prevent the lid of it being closed;

[9] The waste collection services provided by Council may vary from time to time having regard to Council's Waste Minimisation Strategy and Waste Policy. Council currently provides dedicated bins for recyclable materials, general household waste and green waste. The bins clearly identify the type of waste that is to be deposited in them.

(e) place any items in a bin which are likely to damage it or the collection vehicle; and

(f) use a bin provided by Council for any purpose other than depositing waste.

Penalty: 20 penalty units

(3) The occupier of land must:

(a) keep a bin provided by Council:

(i) in good order;

(ii) in a clean inoffensive and sanitary condition; and

(iii) to the satisfaction of the Council;

(b) clearly mark the bin with the address of the land to which it has been allocated and ensure that the address continues to be legible;

(c) keep the bin lid closed at all times except when waste is being deposited in or removed from the bin in accordance with this Local Law; and

(d) maintain the site on which a bin is located in a clean, inoffensive and sanitary condition and must keep the pavement or ground outside the land on which the bin is placed for collection in a clean, inoffensive and sanitary condition.

Penalty: 20 penalty units

(4) The occupier of land must:

(a) immediately notify Council in writing if the bin allocated to the land:

(i) develops a defect;

(ii) is lost;

(iii) is stolen;

(iv) is destroyed; or

(v) is damaged.

(b) The Council may require the occupier of land to pay for the cost of repairing or replacing a bin provided by Council.

Penalty: 20 penalty units

50 Hard Waste Collection

(1) Where the Council provides a hard waste collection service the hard waste to be collected must be left for collection in accordance with Council's Waste Policy or with the conditions of collection notified to the user of the service.

Penalty: 20 penalty units

(2) A person must not, without the consent of the Council or an Authorised Officer, add to, remove or generally interfere with any recyclable goods or hard waste left for collection.

Penalty: 20 penalty units

(3) A person must not place, leave or allow to remain any disused refrigerator, or any other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first:

(a) removing every door and lid; and

(b) removing every lock, catch and hinge attached to a door or lid or making sure that every door and lid is incapable of being fastened; and

(c) placing the item on its back.

Penalty: 10 penalty units

51 Bulk rubbish containers[10]

(1) A person must not place a bulk rubbish container on a road for longer than is practicably required to empty it.

Penalty: 20 penalty units

(2) A person must not cause an –

(a) obstruction; or

(b) danger –

to any person on a road when placing a bulk rubbish container on a road to be emptied.

Penalty: 20 penalty units

(3) A person who has placed a bulk rubbish container on a road must repair any damage to any –

(a) vehicle crossing;

(b) road;

(c) footpath;

(d) kerb; or

(e) drain –

that results from placing the bulk rubbish container on the road or emptying it.

Penalty: 20 penalty units

52 General restrictions

(1) A person must not deposit any household, commercial or industrial waste into a bin provided by Council in a public place.

Penalty: 5 penalty units

(2) A person must not deposit any waste in a bin allocated to any other person or property.

Penalty: 5 penalty units

[10] Under clause 37, a permit is required to place a bulk rubbish container on a road or Council land.

PART 17

MANAGEMENT OF DRAINS

53 Maintenance of Drains

(1) The owner or occupier of any land must ensure that any drain on the land that is not vested in the Council or another public body is maintained in a condition that is not:

(a) dangerous to health;

(b) unsightly; or

(c) a nuisance.

Penalty: 20 penalty units

(2) Except for stormwater, a person must not discharge or cause to be discharged any material into a drain or watercourse, which is vested in or under the control of the Council.

Penalty: 20 penalty units

54 Tapping into Drains

A person must not without a permit –

(a) destroy;

(b) damage; or

(c) tap into –

any drain vested in or under the control of the Council and must only discharge into the legal point of discharge associated with the drain.

Penalty: 20 penalty units

PART 18

OPEN AIR BURNING AND INCINERATORS

55 Application

This Part does not apply to:

(a) a barbecue being used for the purpose of cooking food; or

(b) a tool of trade while being used for the purpose for which it was designed.

56 Fires

(1) A person must not without a permit –

(a) light;

(b) allow to be lit; or

(c) allow to remain alight –

a fire in the open air[11].

Penalty: 20 penalty units

(2) A person must not:

(a) use, construct, erect or install; or

(b) permit to be used, constructed, erected or installed –

an incinerator on any land.

Penalty: 20 penalty units

57 Materials or substances that cannot be burnt

Unless permitted under other legislation, a person must not burn any of the following substances or materials in the open air:

(a) oil, paint, solvents and similar substances;

(b) radioactive waste;

(c) material containing asbestos;

(d) any medical or infectious waste;

(e) a carcass or parts of a dead animal;

(f) any hazardous or chemical waste; or

(g) any volatile or explosive substance;

[11] Fires in the open air includes fire prevention burns or controlled burns other than those done by an emergency service.

Penalty: 20 penalty units

58 Extinguishing Fires

A person who has lit or allowed a fire to remain alight contrary to clause 56(1) or any condition contained in a permit, must extinguish the fire immediately on being directed to do so by:

(a) an Authorised Officer;

(b) a member of the Victoria Police; or

(c) a member of the Metropolitan Fire Brigade.

Penalty: 20 penalty units

59 Chimneys

The owner or occupier of land must not cause or allow any chimney, chimenea or other similar structure on that land to discharge smoke, dust, grit, ashes or embers to such an extent that it is offensive to another person or dangerous to property.

Penalty: 10 Penalty Units

PART 19

Noise

60 Audible Intruder Alarms

A person must not install or permit or allow to be installed or cause to be retained in an active state, an intruder alarm, which emits a noise audible beyond the boundary of the land on which it is installed unless the alarm is constructed or regulated to ensure that it complies with the relevant Australian Standard.

Penalty: 10 penalty units

61 Noise from waste collection

Unless permitted by Council or where there is an agreement with Council, a person must not collect any waste within the municipal district outside of the following hours:

(a) 6am to 8pm on Mondays to Saturdays;

(b) 9am to 6pm on Sundays and public holidays.

Penalty: 20 penalty units

62 Noise from vehicle sound equipment

(1) The owner and the person in control of a vehicle which is parked, standing upon, or being driven along, a road or Council land, is guilty of an offence if the volume of any vehicle sound equipment installed in or kept in the vehicle attains a level which causes unreasonable noise or which interferes with the reasonable comfort of persons within the proximity of the vehicle.

Penalty: 20 penalty units

(2) Without limiting the generality of sub-clause (1), vehicle sound equipment will be deemed to cause unreasonable noise or interference with the reasonable comfort of a person if it can be heard above the background noise level at a distance of 10 metres from the vehicle.

63 Noise from deliveries and other uses and activities

(1) A person must not cause or allow excessive noise to emanate from a use or activity being undertaken by him or her on any land.

Penalty: 20 Penalty Units

(2) A person must not make deliveries to residential premises outside of the following hours:

(a) 7am – 8pm – Monday to Friday;

(b) 9am – 6pm – weekends and public holidays.

(3) A person undertaking any of the uses or activities in paragraphs (a) – (d) must ensure that they are undertaken within the times and in the manner prescribed in the Noise Control Guidelines[12] for that use or activity:

(a) industrial waste collection;

(b) mobile vendors;

(c) truck-mounted refrigeration units; or

(d) deliveries to shops, supermarkets and service stations.

Penalty: 20 Penalty Units

(4) In determining whether there has been excessive noise under this provision, an Authorised Officer will have regard to:

(a) whether the noise can be heard beyond the boundaries of the property that the noise is originating from;

(b) the time that the noise is occurring;

(c) the volume, intensity and duration of the noise;

(d) any applicable guidelines in the Noise Control Guidelines or the State Environment Protection Policies of the Environment Protection Authority; and

(e) any other matters considered by the Authorised Officer to be relevant to the circumstances including whether there is any other legislation applying to nuisance noise[13].

[12] Noise Control Guidelines – Environment Protection Authority - Publication 1254 – 2008 or subsequent publications.
[13] Section 48A – Environment Protection Act 1970 and the Environment Protection (Residential Noise) Regulations 2008

PART 20

ADMINISTRATION AND ENFORCEMENT

64 Permits

(1) The Council or an Authorised Officer may issue a permit or refuse to grant a permit under this Local Law with or without conditions, including the payment of any fee.

(2) The Council or an Authorised Officer may from time to time prescribe:

(a) the manner and form in which applications for permits under this Local Law should be made;

(b) the manner in which any permit under this Local Law should be issued; and

(c) the fee for any such permit.

(3) The Council or an Authorised Officer may waive payment of any fee for a permit.

(4) The Council or an Authorised Officer may require an applicant for a permit to give notice of the application in a manner specified from time to time by the Council or an Authorised Officer.

(5) The Council or an Authorised Officer may require an applicant for a permit to provide the Council with more information before the Council or Authorised Officer deals with the permit application.

(6) A permit expires on the date specified in the permit or if no such date is specified the permit will expire 1 year after the date of issue.

(7) Where the Council or an Authorised Officer is of the opinion that there is or has been a breach of any condition of a permit, it, he or she may serve a Notice to Comply under clause 71 on the permit holder.

65 Exemptions to the Local Law

(1) The Council or an Authorised Officer may grant an exemption from a requirement to have a permit or from any of the provisions of this Local Law.

(2) In determining whether to grant an exemption to the requirement to obtain a permit or a provision of this Local Law, an Authorised Officer will have regard to:

(a) the circumstances of the application;

(b) whether the application is to raise funds for community or charitable purposes;

(c) whether the proposed activity or use will have an overall community benefit;

(d) whether the proposed activity or use could have a detrimental effect on adjoining properties;

(e) whether the applicant will be given an unfair advantage over any other person or organisation; and

(f) any other matters relevant to the circumstances of the application.

(3) An exemption may be granted subject to conditions.

(4) A person must comply with the conditions of an exemption.

Penalty: 5 Penalty Units

(5) An exemption may be cancelled or corrected as if it were a permit.

66 Considering Applications

In considering an application for a permit the Council or an Authorised Officer may consider:

(1) any policy or guideline adopted by the Council or document incorporated by reference in this Local Law relating to the subject matter of the application for the permit;

(2) any submission that may be received in respect of the application;

(3) any comments that may be made in respect of the application by any public authority, Government department, community organisations or other body or person; and

(4) any other relevant matter.

67 Correction of Permit

(1) The Council or an Authorised Officer may correct a permit issued if the permit contains:

(a) a clerical mistake or an error arising from any accident, slip or omission; or

(b) an evident and material miscalculation of figures or any evident and material mistake in the description of any person, thing or property referred to in the permit.

(2) The Council or the Authorised Officer must note the correction in the register of permits.

68 Grounds for Cancellation of or Amendment of Permits

(1) The Council or an Authorised Officer may cancel or amend any permit if it considered that there has been:

(a) a material misstatement or concealment of facts in relation to the application for a permit;

(b) any material mistake in relation to the issue of the permit;

(c) any material change of circumstances which has occurred since the issue of the permit;

(d) a failure to comply with the conditions under which the permit was issued; or

(e) a failure to comply with a Notice to Comply within the time specified in the Notice to Comply.

(2) The Council or the Authorised Officer must notify the holder of a permit of the Council's or Authorised Officer's intention to amend or cancel the permit and give the holder of that permit an opportunity to make a written submission before the permit is amended or cancelled.

(3) If the Council or the Authorised Officer, after considering any written submission made by the permit holder, determines to cancel or amend the permit, the Council or Authorised Officer must note that cancellation or amendment in the register of permits.

69 Powers of Authorised Officers

(1) An Authorised Officer appointed under section 224 of *the Act* and authorised by the Council may carry out any function or power for the purposes of the administration and enforcement of this Local Law.

(2) If an Authorised Officer considers that there has been a breach of this Local Law, including a breach of any conditions of a permit, the Authorised Officer may:

(a) warn the person who is breaching the Local Law, which may be an official warning issued in accordance with the requirements of the *Infringements Act 2006*;

(b) direct the person to cease the activity breaching the Local Law;

(c) serve a notice to comply to remedy the breach;

(d) arrange for works to be undertaken to remedy the breach;

(e) issue an infringement notice; or

(f) commence legal proceedings.

70 Impounding[14]

(1) Where a person owning or responsible for items, goods, animals[15] or equipment has ignored a request from an Authorised Officer to remove them because they are in breach of the Local Law or a permit or for public safety reasons, the Authorised Officer may remove the items, goods, animals or equipment and impound them.

(2) As soon as practicable after goods or item has been impounded under subclause (1), the Council or an Authorised Officer must serve notice of the impounding in the form of Schedule 2 personally or by registered mail on the person who appears to be the owner or person responsible for the impounded item if it is practicable to do so.

(3) Where the identity or whereabouts of the owner or person responsible for the impounded item is not known, the Authorised Officer must take reasonable steps to establish the identity or whereabouts of that person and may proceed to dispose of the impounded item once he or she is satisfied that all reasonable efforts have been made to contact the owner or person responsible for the impounded item.

[14] Where any unregistered or vehicle considered abandoned in impounded, the specific requirements in clause 3 of Schedule 11 of the Local Government Act 1989 must be followed.
[15] Where an animal is impounded the requirements of the Impounding of Livestock Act 1994 apply, including the form of notice to be given.

(4) An impounded item must be surrendered to –

(a) its owner; or

(b) a person acting on behalf of its owner who provides evidence to the satisfaction of the Authorised Officer of his or her authority from the owner subject to:

(i) evidence to the satisfaction of the Authorised Officer that any breach of this Local Law or a permit has been remedied and the requirements of the Local Law or conditions of a permit will be complied with;

(ii) evidence being provided of the owner's right to the item; and

(ii) payment of any fee determined by the Council from time to time.

(5) If an impounded item has not been retrieved within 10 days of the time specified in a notice, an Authorised Officer may take action to dispose of the item taking into consideration the following factors:

(a) where the item has no saleable value, it may be disposed of in the most economical and efficient way;

(b) where the item has some saleable value, it may be disposed of by tender, public auction or private sale; or

(c) where the owner has advised the Council in writing that he or she does not intend to retrieve them, then the Council may dispose of the item by either method identified in paragraphs (a) or (b).

71 Notice to Comply

(1) Where an Authorised Officer considers that there is a breach of this Local Law, including a failure to comply with any conditions of a permit issued under the Local Law or a requirement by an Authorised Officer to abate a nuisance, he or she may serve a Notice to Comply in the form of Schedule 1 on any owner, occupier or other relevant person[16] to remedy the breach.

(2) A Notice to Comply issued in accordance with this Local Law must state the time and date by which the thing must be remedied.

(3) The time required by a Notice to Comply served under this Local Law must be reasonable in the circumstances and what will be reasonable will vary depending on the matters to be remedied, but should take into account, if applicable:

(a) the amount of work involved;

(b) the degree of difficulty;

(c) the availability of necessary materials or other necessary items;

(d) climatic conditions;

(e) the degree of risk or potential risk; and

(f) any other relevant matter.

[16] "Other relevant person" may include an owner's corporation where, for example, there is a breach of this Local Law in relation to waste disposal.

(4) An owner, occupier, builder or appointed agent served with a Notice to Comply who fails to remedy a situation in accordance with a Notice to Comply within the time specified in the Notice is guilty of an offence under this Local Law.

(5) If an owner, occupier, or other relevant person served with a Notice to Comply fails to carry out any work stipulated in the Notice, Council or an Authorised Officer may carry out the work itself or approve another person to carry out the work and recover the cost of performing the work from the owner or appointed agent in accordance with *the Act*.

(6) An owner, occupier, or other relevant person may make representations to the Council about matters contained in the Notice to Comply.

(7) Any person who fails to remedy a thing in accordance with a Notice to Comply within the time specified is guilty of an offence under this Local Law.

Penalty: 10 Penalty Units

72 Power to Act in Urgent Circumstances

(1) Council or an Authorised Officer may, where an owner, occupier, builder or other relevant person has failed to comply with any requirement of this Local Law, take action considered necessary to prevent any danger to the environment or any nuisance arising, provided that:

(a) Council or an Authorised Officer considers the circumstances to be sufficiently urgent and that the time necessary, or potential difficulty in serving a Notice to Comply may place a person, animal, property or the environment at risk or in danger of substantial detrimental effect;

(b) the Chief Executive Officer or his/her delegate not being the Council officer administering this clause, is informed as soon as practicable of the proposed action; and

(c) details of the circumstances and of the remedial action taken are forwarded as soon as practicable to the owner, occupier, builder or other relevant person

(2) Action taken by Council under this Clause shall not extend beyond what is necessary to cause the immediate abatement or minimisation of the risk or danger involved.

73 Infringement Notices

(1) As an alternative to prosecution an Authorised Officer may serve an infringement notice on a person whom the officer believes has committed an offence against this Local Law.

(2) The penalty fixed for infringement notice purposes is the amount set out in Schedule 3.

(3) The provisions of the *Infringements Act 2006* will apply to infringements issued under this Local Law.

74 Offences and Penalties

(1) Where any provision in this Local Law requires that something must be done, any person who fails to do that act is guilty of an offence.

(2) Where any provision in this Local Law requires that something must not be done, any person who does that act is guilty of an offence.

(3) Where any provision in this Local Law requires that a person obtain a permit from Council for the purpose of undertaking a use or activity, that person is guilty of an offence if that person engages in that activity without first obtaining a Permit from Council.

(4) Where any Permit granted under this Local Law contains conditions or contains a requirement that provisions of a document incorporated by reference be complied with, any person who contravenes or fails to comply with a condition of a permit or requirements of an applicable document incorporated by reference is guilty of an offence.

(5) After conviction for an offence under a provision of this Local Law, any person who continues in contravention of that provision is liable to a penalty of 2 penalty units for each day after conviction during which the contravention continues.

(6) A person who is guilty of any offence against this Local Law for which a specific penalty is not prescribed by another provision under this Local Law, is liable to a penalty for that offence not exceeding 10 penalty units for a first offence.

(7) A person who is guilty of a second or subsequent offence against this Local Law is liable to a penalty not exceeding 20 penalty units.

MARIBYRNONG CITY COUNCIL

GENERAL PURPOSES LOCAL LAW 2015

SCHEDULE 1

(Clause 71)

NOTICE TO COMPLY

To:	Name:
Address:	

You have, in the opinion of Maribyrnong City Council ("the Council") or an Authorised Officer of the Council, committed a breach of clause ..... of the Council's Local Law 2015 by

To remedy the breach you must do the following, within ..... days from the date of this Notice:

You should contact

at the Municipal Office, between the hours of . . . . . for any further information about this Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable to a penalty of $..... and the Council will carry out any required work, for the cost of which, in addition to the above penalty, you will liable.

Date: .....

Name of Authorised Officer:

Telephone no: . . . . . .

Signature of Authorised Officer:

Note: If this Notice relates to a contravention of a permit and you do not comply with the Notice, the permit may be cancelled. If you do not wish to have the permit cancelled you should comply with the directions in this Notice or show cause to the Council in writing why the permit should not be cancelled.

MARIBYRNONG CITY COUNCIL

GENERAL PURPOSES LOCAL LAW 2015

SCHEDULE 2

(Clause 70)

NOTICE OF IMPOUNDING

To: .....

of: .....

..... **Postcode** .....

The following item/s has/have been impounded in accordance with clause 70 of the General Local Law 2015

.....

.....

.....

You or an agent authorised in writing to act on your behalf may collect the items by attending at the Municipal Offices between the hours of ..... and ..... to see .....(Contact Officer) and by paying the following:

DETAILS OF FEES AND CHARGES:

$

$

$

Total $

If you fail to collect the item (s) and pay the required fees and charges by ..... (date), the Authorised Officer will proceed to dispose of the item(s) in accordance with the provisions of clause 70 of this Local Law.

Date:

Name of Authorised Officer:

Telephone No:

Signature of Authorised Officer:

MARIBYRNONG CITY COUNCIL
GENERAL PURPOSES LOCAL LAW
SCHEDULE 3

(Clause 73)

PENALTIES FOR INFRINGEMENT NOTICES

Clause	Topic	Penalty Unit for Infringement Notice
	Part 2 Council Land	
8(1)	Failing to comply with requirements applying to the use of Council land	3
8(2)	Acting in a way that could risk or endanger others as described in the clause	10
8(3)	Undertaking a prohibited activity	3
9	Failing to obtain a permit for uses on Council land or a road	10
10	Failing to obtain a permit to camp on a road or Council land	10
11	Failing to obtain a permit to busk on a road or Council land	3
	Part 3 Consumption of alcohol in Alcohol Restriction Areas	
13	Consuming alcohol contrary to restrictions in Alcohol Restriction Area	5
15(a)	Failing to comply with the directions of an Authorised Officer	5
	Part 4 Use of Land	
16(1)	Allowing land to be kept in a way that is unsightly, dangerous, a nuisance or detrimental to the general amenity of the neighbourhood	5
16(2)	Allowing buildings or fences to be kept in a way that is unsightly, ruinous or detrimental to the general amenity of the neighbourhood	5
17(1)	Failing to obtain a permit to hold a circus or carnival without a permit	10
17(3)	Failing to have a licence to hold a circus on Council land	10
	Part 5 Clothing Recycling Bins	
18	Placing a clothing recycling bin on Council land	10
	Part 6 Camping and Caravans	
19	Failing to obtain a permit to occupy or place a caravan, tent or like structure on land of owner /occupier	5
20	Failing to obtain a permit to camp	5

	Part 7 **Numbering Properties**	
21	Using incorrect Number on premises	3
22	Failing to mark the premises with the allocated number	3
23	Failing to mark properties in accordance with the requirements	3
	Part 8 **Signs, Goods and Furniture**	
24(1)	Failing to obtain a permit a display, sign or furniture on a road, footway or Council Land	5
24(2)	Failing to comply with Council's Guidelines	5
24(3)	Failing to obtain a permit to place advertising signs remove a display, sign or furniture when directed to do so	5
24(4)	Failing to remove a display, sign or furniture when directed to do so	5
	Part 9 **Sale of Goods, Street Collections and Spruiking**	
25(1)	Failing to obtain a permit to sell goods on Council land or roads or from a person, vehicle or animal	5
25 (2)	Failing to obtain a permit to sell goods on Council land or roads or from a person, vehicle or animal	5
26	Failing to obtain a permit do street collections	5
27	Failing to obtain a permit to spruik	5
	Part 10 **Building Sites**	
28(1)	Failing to notify of intention to commence building work or obtain an Asset Protection Permit	10
29	Failing to comply with the requirements of an Asset Protection Permit	10
30(1)	Failing to comply with the conditions of the provision	10
30 (2)	Failing to comply with the conditions of the provision	10
30(3)	Carrying out building works contrary to the requirements	10
31(1)(a)	Failing to remove builders rubbish in accordance with requirements	10
31(1)(b)	Failing to use a temporary vehicle crossing unless permitted	10
	Part 11 **Hazards on Roads**	
33	Failing to obtain a permit to occupy the road for works	10
34(1)	Driving a vehicle not free from soil, earth, clay	10
34(2)	Permitting substances to fall from vehicle used in the course of trade, industry or commercial undertaking	10
34(3)	Permitting substances to fall from vehicle used in the course of washing a vehicle used in trade, industry or commercial undertaking	10
35(1)	Leaving a shopping trolley outside a designated area	3
35(2)	Failing to implement trolley management	10

35(4)	Failing to comply with requirements of provision	5
36	Permitting obstructions to overhang Council land	5
37	Failing to obtain a permit to leave bulk rubbish containers or other obstructions on a road	5
	Part 12 Vehicle Crossings	
38(1)	Failing to obtain a permit to construct a temporary or permanent vehicle crossing	5
38(3)	Failing to comply with directions in a notice	5
	Part 13 Motor Vehicles	1
39(2)	Driving a heavy vehicle in contravention of signs	5
39(3)	Failing to obtain a permit to keep a heavy vehicle on a residential property	5
40	Repairing, selling or displaying vehicles on road or Council land without a permit	5
	Part 14 Recreational and Toy Vehicles	
41(1)	Using a recreational vehicle on any land without a permit	2
41(2)	Using a recreational vehicle in a manner which causes a nuisance, damage or injury	5
41(3)	An owner/ occupier allowing a recreational vehicle to be used on private land without a permit	2
42	Using a toy vehicle in a manner so as to interfere with or cause a nuisance or danger to a person	2
	Part 15 Animals and Birds	
44(1)	Failing to obtain a permit to keep more animals than prescribed	2
44(3)	Keeping a rooster contrary to provision	10
45	Allowing a wasp nest or bee swarm to remain on property	2.5
46(1)	Failing to comply with requirements on land in relation to structures used for housing animals	10
46(2)	Failing to comply with requirements about keeping animals or poultry	10
47(1)	Allowing animal excrement to remain on Council land	2.5
47(2)	Failing to collect and dispose of the excrement so as not to cause a nuisance	
47(3)	Fail to carry a litter device as required	
48	Failing to prevent unreasonable/objectionable animal noise	10
	Part 16 Waste Disposal	
49(1)	Failing to comply with the conditions of Council's waste collection service	10
49(2)	Failing to comply with the conditions of Council's waste collection service	10
49 (3)	Failing to comply with the conditions of Council's waste collection service	10

49(4)	Failing to notify Council of lost, damaged or stolen garbage bin	2.5
50(1)	Failing to leave hard waste for collection in accordance with conditions of the service	3
50(2)	Removing or interfering with hard rubbish left for collection without consent	3
50(3)	Failing to comply with requirements applying to a disused refrigerator	10
51(1)	Leaving a bulk rubbish container for longer than necessary	5
51(2)	Causing an obstruction or danger to people by leaving bulk rubbish on a road	5
51(3)	Failing to repair any damage caused by bulk rubbish container left on a road	5
52(1)	Depositing household, commercial or industrial waste in a bin in a public place	5
52(2)	Depositing waste in a bin allocated to another property or person	5
	Part 17 Management of Drains	
53(1)	Failing to properly maintain a drain	5
53(2)	Discharging material (other than Stormwater) into a Council drain	5
54	Failing to obtain a permit to tap into a Council drain	10
	Part 18 Open Air Burning and Incinerators	
56(1)	Failing to obtain a permit to light a fire in the open air	5
56(2)	Using or constructing an incinerator	5
57	Burning materials or substances contrary to requirements	5
58	Failing to extinguish a fire upon request	5
59	Allowing a chimney to be offensive to a person or dangerous to health or property	5
	Part 19 Noise	
60	Permitting noise from an audible Intruder alarm to be heard beyond property boundary	10
61	Collecting waste outside of prescribed times	5
62(1)	Making unreasonable noise from vehicle sound equipment	5
63(1)	Causing or allowing excessive noise to emanate on any land.	5
63 (2)	Making deliveries to residential premises outside Hours	5
63(3)	Allowing noise from uses or activities contrary to Guidelines	5
65(4)	Failing to comply with conditions of exemption	3
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Attachment 4 - Maribyrnong - General-Purposes-Local-Law-2015

Maribyrnong
CITY COUNCIL

Alcohol and Other Drugs Policy 2017-2021

Records number:		**Endorsed by:**	
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Introduction

Addressing the harms associated with alcohol and other drug use has been a long-term, complex problem for all levels of government. The misuse of alcohol and other drugs is widely recognised in Australia as a major health problem, and one that has broader social and economic costs.

Local governments play an important role in balancing the contribution that licensed premises make to the vitality of our local areas, with management of the social, economic and health impacts of alcohol and other drug misuse in local communities. The responsibilities of Council in regards to the management of alcohol and other drugs issues are defined within various State legislation, including the Vic*torian Public Health and Wellbeing Act 2008* and the *Victorian Local Government Act 1989,* the *Victorian Planning and Environment Act 1987*, the Liquor Control Reform Act 1998 (in relation to licensed premises) and the Tobacco Act 1987.

Maribyrnong City Council has a strong history of taking action on the harms caused by misuse of alcohol and other drugs, beginning with the first strategic policy response in 1998. This was at a time when street-based heroin use and dealing escalated in Footscray as well as a number of other Melbourne locations. The State Government recognised these 'hot spots' and together with four other local governments, Maribyrnong City Council received funding to develop and implement an Illicit Drug Strategy over the early 2000's.

Since this time Council has adopted iterations of its Alcohol and Other Drugs Strategy, including a specific Public Drinking Strategy to address problematic public drinking occurring in some parts of Footscray in the mid 2000's.

Growth, gentrification and imminent residential development, combined with changing patterns of alcohol and other drug use over the last decade, has prompted Council to research the local policy context and re-affirm its position on managing alcohol and other drugs within the municipality.

Consistent with National and State Government policy and evidence-based practice, Council's policy position is strongly informed by a harm minimisation approach. Harm minimisation aims to reduce the adverse health, economic and social consequences of drug use for individuals and the broader community. In achieving this aim harm minimisation encompasses a wide range of integrated approaches, including supply-reduction to disrupt the production and supply of drugs; demand-reduction to prevent the uptake of harmful drug use; and harm-reduction strategies to reduce the harm experienced by drug users and the broader community.

Purpose

The purpose of this policy is to outline Council's overall position and guiding principles in the management of harms caused by the misuse of alcohol and other drugs (AOD).

Scope

This policy:

- Provides information on the use and impacts of alcohol and other drug use in the municipality through a Discussion Paper at *Attachment 1*.
- Focuses on the harmful use of alcohol, licit and illicit drugs; not the responsible consumption of licit substances.
- Recognises that local governments can only address part of the complex issues raised by misuse of alcohol and other drugs, meaning strong local partnerships are crucial.
- Aligns with Council's legislative duties and powers under the *Local Government Act 1989*, the *Public Health and Wellbeing Act 2008*, the *Liquor Control Reform Act 1998*, the *Tobacco Act 1987,* and the *Victorian Planning and Environment Act 1987*.
- Aligns with key Council policies including the *Shared Approach to Safety in the City of Maribyrnong 2015-17*, *Licensed Premises Policy*[1], *Council Plan 2017-21* (incorporating the Health and Wellbeing Plan) and the *Human Rights and Social Justice Framework 2017-21*.
- Informs a framework for local action that focuses on five priorities: advocacy, research, partnerships, information provision and leadership.

Problem definition

The City of Maribyrnong, and Footscray in particular, has a history of illicit drug use and trafficking and heroin use is still relatively high. But it is the two most widely available and socially acceptable drugs, alcohol and tobacco, that cause the most drug-related harm.

Maribyrnong continues to have areas of high disadvantage, which puts parts of the population at an increased risk of being affected by issues associated with alcohol and other drugs. At-risk groups include people experiencing homelessness, unemployment, people with mental illness, young people, middle aged and older men, Indigenous people and those from other culturally diverse backgrounds.

The following provides a brief summary of the key issues in the City of Maribyrnong, with more detailed data and analysis provided in the **Discussion Paper** at **Attachment 2.**

[1] This policy is currently in draft form and expected to be finalised mid 2017.

Alcohol

Local governments must balance the positive part that alcohol plays in Australian society with the risks to health, safety and wellbeing its misuse can pose for the community. On the one hand, alcohol often accompanies socialising and celebrations, generates employment and revenue, activates streetscapes and enhances local identity as an entertainment and tourism destination. On the other hand, alcohol misuse contributes significantly to health and social issues. Alcohol is a major contributor to morbidity and mortality rates, with alcohol-related harm accounting for 3.2% of the total national burden of disease and costing an estimated $36 billion per year.

Over the last decade, the consumption of alcohol by Maribyrnong residents and the alcohol-related ambulance rates (particularly for 40-64 and 65+ age groups) have increased and are above metropolitan averages.

The number and density of alcohol outlets in the municipality have also increased, which is likely to continue given population projections and development plans within the municipality. Managing amenity issues through the planning process, such as ensuring appropriate venue location and design, noise, hours of operation, patron numbers, car parking and public transport, is key to maintaining and improving the city.

Tobacco

Maribyrnong mirrors the national and Victorian trend in terms of a decline in the prevalence of smokers for both men and women. The proportion of current smokers in Maribyrnong is also similar to the Victorian average; 16% of residents aged 18 and older smoke daily or occasionally.

Despite the declining trend, tobacco smoking is the single most preventable cause of ill health and death, being a major risk factor for coronary heart disease, stroke, peripheral vascular disease, cancer and various other diseases and conditions. Smoking disproportionately affects disadvantaged population groups, with smoking rates higher among Aboriginal people, people who experience psychological distress, people with a lower level of education, and people on low incomes or who are unemployed.

Other Drugs

Illicit drug use is a major risk factor for ill health and death, being linked with HIV/AIDS, hepatitis C, low birth weight, malnutrition, poisoning, mental illness, suicide, self-inflicted injury and overdose. Social impacts of illegal drugs can include relationship breakdown, child neglect and family violence.

Prescription and over-the-counter drugs, in particular the use of opioids, codeine and benzodiazepines are increasing and are emerging as an issue of concern.

The focal point of illicit drug use within Melbourne's west has shifted away from Footscray, towards the outer western areas, but many services are still concentrated in Maribyrnong and in particular, Footscray.

Heroin is still the primary drug of choice for many accessing alcohol and other drug services but is often combined with alcohol, methamphetamine or other substances.

Drug-related ambulance rates are higher in Maribyrnong compared to metropolitan Melbourne for most drug types including heroin, crystal meth, cannabis and benzodiazepine.

Broader policy context

National

At the national level, the Intergovernmental Committee on Drugs is currently developing a new National Drug Strategy 2016-2025. The draft strategy describes a nationally agreed harm minimisation approach to reducing the harm arising from alcohol, tobacco and other drug use. It aims to "contribute to ensuring safe, healthy and resilient Australian communities through minimising alcohol, tobacco and other drug-related health, social and economic harms among individuals, families and communities."

The National Ice Taskforce, established in 2015, has also been set up to provide advice on the impacts of ice in Australia and guide appropriate actions. The Taskforce has recommended that government action on reducing the demand for ice and reducing the harm it causes, while enhancing efforts to disrupt supply in key areas.

State

The *Victorian Public Health and Wellbeing Plan 2015–2019* identifies 'smoke free living' and 'reducing harmful alcohol and drug use' as two of its six priority areas for action and emphasises the key role of local government in community health and wellbeing. On the advice of Victoria Police and health and legal experts, $45.5 million was announced in 2015 for Victoria's Ice Action Plan.

Following a state government review, a major change in the delivery of drug treatment services has recently taken place in Victoria. The alcohol and drug treatment services sector and mental health community support services sector (MHCCS) went through a reform process which resulted in substantial components of both sectors being re-commissioned. The responsibility for both screening, initial comprehensive assessment and referral is vested with the intake and assessment provider. This change has resulted in considerable adjustments for old and new clients and their families with support needs and for the existing alcohol and drugs service providers.

Local

Local governments have the capacity to decrease alcohol-related harm through a variety of demand-side, supply-side and harm-minimisation activities, including: controlling the location and design of licensed premises through planning; providing adequate infrastructure around licensed venues to minimise amenity issues; building

community awareness; managing liquor consumption on Council land (e.g. through lease arrangements with sporting clubs); and promoting alternative, non-alcohol related activities to young people and young adults in a local area to reduce harm and change local drinking culture.

There is a statutory responsibility to assess the impacts of licensed premises in their municipality under the Victorian Planning and Environment Act 1987, and local governments have the option to respond to applications to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) in their municipality.

Local governments play an important role in managing the harms caused by illicit drug issues through activities including needle and syringe disposal, education, design principles, community engagement programs and partnerships (including with Victoria Police and local service providers).

Inner city councils that have established an extensive night time economy in their municipality, have a variety of alcohol- and drug-related responses including syringe management, community safety committees, liquor forums, campaigns aimed at reduce harmful drinking, safe taxi ranks, and work closely with Victoria Police to prevent crime and violence.

Role of key stakeholders

Local government is limited in what it can do to address the complex issues surrounding alcohol and other drugs. There are a range of other organisations that have an important and complementary role in this space:

- Victoria Police addresses the demand, supply and harm associated with alcohol and other drugs through a number of processes and initiatives, including monitoring and enforcing compliance with liquor licenses, enforcement approaches and proactive policing. Victoria Police has partnered with Council on *A Shared Approach to Safety in the City of Maribyrnong 2015-17*, which prioritises minimising the impact of alcohol and other drugs on the community.
- The regional intake and assessment provider for Maribyrnong is Odyssey House Victoria & UnitingCareReGen. They work in partnership with a range of community local health and welfare organisations to deliver treatment services across North and West metropolitan Melbourne, including those located within the City of Maribyrnong such as Western Health Drug and Alcohol Services, Mackillop Family Services, Joseph's Corner and cohealth.
- cohealth – Health Works program supports the health and wellbeing of people who inject drugs by providing them with medical and general health care, safer using equipment, and education.
- Research institutes have a role in undertaking research related to alcohol and other drugs (AOD). A key example of this is the University of Melbourne recently completing a 'changing trends in AOD patterns' report for the City of Maribyrnong via the Hotspots partnership. The Burnett Institute have also actively participated in local AOD research.

- The Alcohol and Drug Foundation has a link with the City of Maribyrnong through the 'Good Sports' program in local sporting clubs and 'The Other Talk' workshops for parents.
- The Victorian Health Promotion Foundation (VicHealth) is active in the alcohol space and has identified 'preventing harm from alcohol' as one of its five health promotion priorities. VicHealth works to promote effective interventions, improving community awareness and enabling all Victorians to take responsibility for alcohol harm reduction. VicHealth has recently released its Alcohol Cultures Framework and has announced funding for local government action under this framework.

Council's current response

Council's current focus is on minimising the harms caused by alcohol and other drugs. Action is taken across a broad range of departments and work areas, as summarised below.

Policy and legislation	• The *Planning and Environment Act 1987* enables councils to address amenity impacts resulting from licensed premises and the *Liquor Control Reform Act 1998* allows councils to make submissions regarding amenity and social impacts including community safety. • Council's implementation and enforcement of the *Tobacco Act 1987* contributes to further declines in active and passive smoking. • The local *Licensed Premises Policy* will help licensed premises maximize positive community benefits and minimise negative impacts by directing licensed premises to activity centres, away from residential areas, and ensuring appropriate venue design, operating capacity, hours of operation, and sufficient transport accessibility. • The *General Purpose Local Law* deals with the consumption of alcohol in public places. There is currently one alcohol exclusion zone in Maribyrnong located in Footscray CBD and near surroundings. • The *Festival Policy*, which contributes to the prevention of AOD issues by offering residents an alternative to AOD and opportunities to participate in and connect with their local area. • The *Night Time Economy Action Plan* which seeks to promote a vibrant, safe and prosperous night time economy. • *A Shared Approach to Safety Strategy 2015-17* which includes four goals: minimising the impact of alcohol and other drugs on the community, preventing violence against women, building strong and safe communities through inclusion and participation, and providing public spaces than enhance safety and reduce anti-social behaviour.
Information, advocacy and partnerships	• Sharing information about the services available to disadvantaged families including those who face alcohol and other drug issues and providing programs that reach disadvantaged families, reduce social isolation and enhance social connections. • Support of local community health services in the delivery of relevant AOD programs and services, including needle and syringe programs, to prevent spreading blood borne viruses among people who inject drugs and in turn protect the wider community.

	• Participation in relevant AOD networks and partnerships, including the Western Region AOD Network, MAV AOD Network and the Whole of Government Hotspots project (focusing on changing trends in patterns of AOD use and night-time economies research).
Programs and services	• Needle/syringe collection, including free disposal containers to community members, and street cleansing activities. • Influencing sport clubs' alcohol cultures by limiting the hours of consumption and sale of alcohol on Council's grounds, encouraging sport clubs to participate in the Good Sports Program and in forums and courses around liquor licensing, gender equity, and responsible serving of alcohol. • Offering many programs and events for young people which are alcohol, drug and smoke free regardless of age. • *Family Strengthening Strategy,* which includes facilitation of 'The Other Talk', a workshop delivered by the Alcohol and Drug Foundation designed for parents to supports them in talking about alcohol and other drugs to protect their children from associated harms.

Policy Statement

Maribyrnong City Council recognises the important role it plays as a leader, partner, advocate, decision-maker and service provider in addressing the harms caused by alcohol and other drugs.

Council remains committed to a harm minimisation approach, which is strongly aligned with both the national and state policy context, and aims to reduce the adverse health, economic and social consequences of alcohol and other drug use for individuals and the broader community.

In addressing the local impacts of alcohol and other drug use, Council acknowledges that it is limited in what it is able to achieve and relies on a wide range of partners working together to implement effective supply-reduction, demand-reduction and harm-reduction strategies.

Council also acknowledges that licensed venues make a positive contribution to the economic vitality of the municipality and that this will be supported alongside efforts to reduce the harms caused by alcohol misuse.

Council's framework for action will focus on the areas most amenable to local government action: advocacy, research, partnerships, information provision and leadership.

Guiding principles

Key policy principles under pinning this policy are: harm minimisation, social justice & human rights, and a shared approach.

Principle 1: Harm minimisation

Like national, state and previous local drug strategies, this policy promotes a harm minimisation approach used by Council and key stakeholders in addressing the complex issues associated with alcohol and drug use. Harm minimisation aims to reduce the adverse health, economic and social consequences of drug use for individuals and the broader community. To achieve this aim, harm minimisation incorporates three approaches: 1) demand reduction, to prevent uptake of harmful drug use; 2) supply reduction, to disrupt the supply of drugs; and 3) harm reduction, to reduce the harm experienced by drug users and the broader community.

Principle 2: Social justice & human rights

Council upholds the rights for everyone and acknowledges that disadvantaged populations are most at risk of harms associated with alcohol and other drugs. In developing responses to minimise alcohol and other drug harms, Council will take into account the needs and issues of people experiencing homelessness, unemployment, people with mental illness, young people, Indigenous people and those from other culturally diverse backgrounds. Council's actions should not further contribute to their marginalised status.

Principle 3: A shared approach

By implementing this policy, Council contributes to the work of other levels of government and local stakeholders to reduce the supply, demand and harm of alcohol and other drugs.

Council cannot achieve change on its own. Further work and strong partnerships between Federal, State and local governments, Victoria Police, community health providers, drug and alcohol service providers, research institutes, health promotion agencies, the education sector, sporting clubs, the hospitality sector and the community will be required to see positive change in this area.

Framework for Action

Following a review of relevant data and evidence and stakeholder consultation, Council has developed a **Framework for Action** – see **Attachment 1**.

The five action areas in the framework are:

- Advocacy
- Research
- Partnerships
- Information Provision
- Leadership

Responsibilities

- Delivery on this strategy is an *all of Council* responsibility.

Key stakeholders

- City of Maribyrnong community
- Victoria Police
- Local Drug and Alcohol services, including Cohealth, Western Health Drug and Alcohol Services, McKillop Family Services, Joseph's Corner, Odyssey House
- Research institutes including the University of Melbourne, Victoria University and Burnet Institute
- Department of Health and Human Services
- HealthWest Partnership
- Alcohol and Drug Foundation
- Victorian Health Promotion Foundation
- Local sporting clubs
- Hospitality sector
- Local primary and secondary schools
- Neighbouring councils

Related Documents

- Council Plan 2017-2021 that incorporates the Municipal Public Health and Wellbeing Plan
- A Shared Approach to Safety in the City of Maribyrnong 2015-2017
- Maribyrnong Licensed Premises Policy

Related legislation

- Victorian Local Government Act 1989
- Victorian Planning & Environment Act 1987
- Liquor Control Reform Act 1998
- Victorian Tobacco Act 1987
- Victorian Charter of Human Rights and Responsibilities 2006
- The Public Health and Wellbeing Act 2008

Review of the Policy

The policy will be reviewed four years from the date of approval, or whenever Council determines that there is a need to amend the policy.

Definitions

Term	Definition
AOD	Alcohol and Other Drugs
Benzodiazepines	Sedatives that affect the central nervous system by slowing down the body physically, mentally and emotionally. Prescribed by doctors to treat anxiety, sleeping problems, epilepsy, alcohol withdrawal, and muscle spasms.
Cannabis	A depressant that comes from the hemp plant, Cannabis sativa. When taken at high doses it can have hallucinogenic properties. Marijuana, hashish and hashish oil come from this plant. The active chemical in cannabis is THC (delta-9 tetrahydrocannabinol).
Crystal meth	A slang name for crystalline methamphetamine. See also Ice and Methamphetamine.
Current smoker	Smoking daily or occasionally
Ecstasy	A street term for a range of drugs that are similar in structure to the synthetic stimulant MDMA (methylenedioxymethamphetamine). The chemical structure of MDMA is related to stimulants and some hallucinogens. Drugs sold as "ecstasy" often contain a range of drugs such as amphetamine, amphetamine derivatives, caffeine, aspirin, paracetamol, ketamine, in addition to, or in place of MDMA.
GHB	Gammahydroxybutyrate (GHB) is a drug that has a depressant effect on the brain and central nervous system. It was originally developed as an anaesthetic but was withdrawn due to unwanted side effects. GHB is used as a "party drug" and has been used to facilitate sexual assault. Liquid ecstasy is another name for GHB.
Harm minimisation	Harm minimisation aims to reduce the adverse health, economic and social consequences of drug use for individuals and the broader community. To achieve this aim, harm minimisation incorporates three approaches: 1) demand reduction; 2) supply reduction; and 3) harm reduction: Includes strategies and actions that prevent the uptake of drug use, delay the first use of drugs, and reduce the harmful use of alcohol, tobacco and other drugs in the community. It also includes supporting people to recover from

• Demand reduction • Supply reduction • Harm reduction	dependence and enhance their integration with the community. This can be achieved by influencing consumption patterns through for example community education, social norms, availability of alternate activities and pricing of licit drugs. Includes strategies and actions that prevent, stop, disrupt or otherwise reduce the production and supply of illicit drugs; and control, manage or regulate the supply of alcohol, tobacco and other licit drugs. This can be achieved by influencing the availability and accessibility of AOD through for example police presence, smoking bans, restricted alcohol areas, and influencing the location, opening hours and management of outlets, venues and sporting clubs. Harm reduction strategies aim to reduce the negative outcomes from alcohol, tobacco and other drug use when it is occurring by encouraging safer behaviors, creating supportive environments and reducing preventable risk factors. This can be achieved by mitigating negative impacts through for example alcohol and drug services, treatment, programs, and built environment interventions such as transport, lighting, and security.
Heroin	One of a group of drugs called opiates, which are derived from the opium poppy. A depressant that affects the brain by slowing down the activity of the central nervous system and messages going to and from the brain. See also Opiate.
Illicit drugs	Illegal drugs, drugs and volatile substances used illicitly, and pharmaceuticals used for non-medical purposes.
Liquor Control Reform Act 1998	Allows councils to make submissions to the VCGLR regarding amenity and social impacts including community safety.
Local Government Act 1989	Confers a role on local government to represent the needs and advocate on behalf of the local community.
Methamphetamine	A stimulant drug, also called speed or amphetamine. Most commonly it is found as a colourless crystalline solid, sold under a variety of names, such as crystal meth, crystal or "ice".
NSP	An acronym for needle and syringe program. A public health measure, consistent with the principles of harm minimisation, to reduce the spread of infections, such as HIV and hepatitis C, among people who inject drugs. NSPs provide sterile injecting equipment, education on reducing drug use, health information, and referral to drug treatment, medical care and legal and social services. Programs do not supply drugs or allow people to inject drugs on the premises.
New psychoactive substances	New psychoactive substances (NPS) are a range of drugs that have been designed to mimic established illicit drugs, such as cannabis, cocaine, ecstasy and LSD.
Overdose	When the amount of a drug taken exceeds the body's ability to cope with the drug. Results in acute adverse physical or psychological effects, including stupor, coma, respiratory depression or death.
Over-the-counter drug	Drug that can be sold or administered without a prescription
Pharmaceutical drug	An over-the-counter or prescription drug available through a pharmacy.

Planning & Environment Act 1987	Gives Councils the framework to address amenity impacts resulting from licensed premises.
Poly drug use	Using two or more drugs at the same time.
Prescription drugs	Pharmaceutical drugs that legally requires a medical prescription to be dispensed.
Public Health & Wellbeing Act 2008	The Act requires each council to create Municipal Health & Wellbeing Plans to protect and promote health and wellbeing including taking steps to prevent and control public health risks.
VCGLR	Victorian Commission on Gaming and Liquor Regulation

Attachment 1

Framework for Action 2017-2021

Council's framework for local action focuses on five priorities: advocacy, research, partnerships, information provision and leadership. Maribyrnong City Council commits to the following goals and actions in support of the policy over the next four years:

Priorities, goals & actions
1. Advocacy

Rationale:
The services and programs that address drug misuse, are funded and delivered by Federal, State and the community based sector. To maintain and improve programs it is crucial that Council and local stakeholders adopt a proactive advocacy role to ensure local needs are met.

Goal:
Maribyrnong City Council will in partnership with other organisations advocate for policy and program changes to all levels of government and to relevant services to address locally identified drug issues and seek external funding and resources to implement future actions.

- Council will participate in regional advocacy efforts for improved Alcohol and Other Drug (AOD) service coverage in the Western Metropolitan Region.
- Consistent with the *Municipal Strategic Statement* and *Licensed Premises Policy*, Council will:
  - Encourage licensed premises to be located in activity centres and be complementary to the role of those centres.
  - Ensure good venue design providing a high level of public safety and surveillance.
  - Use the *Licensed Premises Policy* to assist in the assessment of planning applications for licensed premises. This includes consideration of the full range of factors that can unreasonably impact on amenity, including venue type, design, noise, operating hours, patron numbers, location and access, clustering of licensed premises.
- Where appropriate, Council will take a proactive participatory function at the VCGLR, objecting to liquor licenses where evidence indicates additional premises would diminish public amenity or packaged liquor outlets would contribute to the misuse or abuse of alcohol.

- Council will consider advocacy, as appropriate, to enhance the influence of local governments on liquor licensing decisions.
- Council will seek additional funding in partnership with other organisations to:
  - develop strategies to support young migrants and migrant families to manage situations where they will be exposed to AOD.
  - address the complex issue of alcohol misuse, mental health problems, poor housing and social isolation in middle-aged and older men.

2. Research

Rationale:

Given the limited resources available to our local area and the complexity of the alcohol and drug problems, it is important that we determine our local action based on sound information, thorough assessment and knowledge of what is likely to produce the outcomes we want to achieve.

Goal:

Maribyrnong will support AOD research initiatives, monitor AOD misuse and related harm, and develop policies and recommendations based on accurate, relevant and recent data, information from stakeholders and evidence-based interventions.

- Council will regularly monitor, analyse and present data on AOD misuse, ambulance attendances, hospitalisations, treatments, crime statistics perceived safety data, and availability of alcohol in the City.
- Council will provide analysis of Local, State and Federal policy initiatives, which have implications for the Council and the community.
- Council will research and evaluate evidence-based information that will assist in responding to AOD-related issues.
- Council will engage with stakeholders in the development of responses that impact on AOD harms.
- Council will continue to participate and support existing and upcoming local AOD research initiatives.

3. Partnerships

Rationale:

Many stakeholders and all levels of government are working towards dealing with the problems of alcohol and drug use. It is important that local action integrates with the work of others, including the work of neighbouring councils, and is well coordinated at a local level.

Goal:

Maribyrnong City Council will engage actively with key stakeholders and will acknowledge and strengthen partnerships in developing AOD responses.

- Council will continue to participate in the western metropolitan region AOD network, the MAV AOD Issues forum, the northern and western region health and wellbeing planners network, and convene the Maribyrnong Workers with Young People Network and community safety forums in partnership with Victoria Police
- Council will continue to work with other local governments and the State Government on key AOD issues, including follow-up actions from the Whole of Government Hotspots Changing AOD Trends project and Hotspots Night Time Economy project.
- Council will continue to provide support where required to local community health services in the delivery of relevant AOD programs and services, including needle and syringe programs.
- Council will support the Alcohol and Drug Foundation, Victorian Health Promotion Foundation, and local schools in facilitating AOD prevention measures such as workshops for parents and programs and campaigns for young people in Maribyrnong.

4. Information provision

Rationale

There are a lot of myths and facts available on the net about drug use and issues, treatments and services. To help our local community to find and understand up-to-date and correct information about prevention, harms, services and programs, it is important that council collects, checks and shares this information with our diverse community.

Goal:

Maribyrnong City Council will provide and share information on AOD prevention and related issues and the services available to the community on Council's website and through its networks.

- Council will make information about AOD prevention and support available and accessible via its website and through its networks.
- Council will regularly update the services and contact details of the alcohol and drug services available for residents in Maribyrnong.
- Council will update information about Council's syringe collection services and the safe handling of syringes.
- Council will explore options for the local libraries to deliver an annual display, speaker, and activities to educate and raise awareness about preventing and minimising AOD harms.

- Council will invest in staff training for relevant staff who regularly deal with residents and visitors that are under the influence of AOD, to provide them with an overview of procedures and techniques.
- Council will continue to provide individual support and referrals for young people to AOD services when applicable.

5. Leadership

Rationale

Local government is the tier of government closest to the community. Council partners with an abundant amount of community organisations to support community life. Council is in the position to encourage good practices in the prevention of AOD misuse and related harm and responsible consumption of alcohol. Council has the opportunity to lead by example and thus act as a role model.

Goal:

Maribyrnong City Council will be a role model for the community and the organisations that Council works in partnership with in the prevention of AOD misuse and related issues.

- Council will work together with the Alcohol and Drug Foundation with the aim of having all sport clubs becoming a Good Sports member.
- Council will work together with the Alcohol and Drug Foundation to ensure all sport clubs where juniors are present become a Good Sports Junior members (which aims to restrict/prohibit alcohol sale and consumption during junior matches and training).
- Council will require all clubs to have an updated Alcohol Management Plan as part of their seasonal usage agreements (including consideration of the sale and consumption of alcohol during junior matches where relevant).
- Council will promote Club Development Programs on liquor control and responsible service of alcohol in sport club publications.
- Council will offer sport clubs free RSA training once a year.
- Council will update the Conditions of Use for Sport Facilities to document Victoria's Tobacco Act 1987 that prohibits smoking within the vicinity of Sport Facilities.
- Council will continue to support local food and wine festivals and carefully assess any applications for advertising, sponsorship or festival funding from alcohol companies on a case by case basis, with regard to the nature of the event, and particularly whether there are children and young people present.

- Council continues to refuse funding applications, sponsorship and advertising from tobacco businesses.
- Council ensure that responsible drinking messages are promoted and responsible service of alcohol occurs including the availability of food and non-alcoholic drinks at all festivals.
- Council continues to deliver the New Year's Eve fireworks event as an alcohol free event.
- Council will continue to provide and promote drug and alcohol free events and activities for young people.
- Council will explore and support arts lead initiatives that address community health and wellbeing, including AOD use and misuse.

CITY OF MELBOURNE

Melbourne City Council

Activities Local Law 2019

Including changes made by the Activities and Environment (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

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Part 1
Preliminary

Title

1.1 This Local Law is called the "Activities Local Law 2019".

What are the objectives of this Local Law?

1.2 The objectives of this Local Law are to:

(a) promote a physical and social environment free from hazards to health, in which the residents of and visitors to the *municipality* can enjoy a quality of life that meets the general expectations of the community;

(b) control noise, behaviour, *liquor* consumption, *animals, spruiking*, busking, *advertising sign*, works and obstructions on *roads*, street trading, the use of *toy vehicles* and other activities;

(c) protect the use of *public places* and control activities in or near them;

(d) provide for safety in *public places*;

(e) regulate and manage the legitimate display of *street art*, in or within view from, a *public place* so as to facilitate a vibrant urban culture;

(f) provide for, control and manage the use of *premises* and *vehicles* in particular circumstances;

(g) regulate the number and manner of keeping of *animals*;

(h) control, prevent and abate *nuisances*; and

(i) provide for the peace, order and good government of the *municipality*.

1.3 This Local Law contributes to the Council's long term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of the city's residents, businesses and environment.

What authorises this Local Law?

1.4 This Local Law is made under the provisions of Part 5 of the *Local Government Act 1989*.

When does this Local Law commence?

1.5 This Local Law commences on the first day of July 2019.

To what part of the *municipality* does this Local Law apply?

1.6 Subject to clauses 1.7, 1.8 and 1.9, this Local Law applies throughout the whole of the *municipality*.

1.7 Clauses 3.1 to 3.3 inclusive apply as follows:

(a) to that part of the *municipality* which is *prescribed* by the *Council* for the purposes of this clause 1.7(a), throughout the whole of each year; and

(b) to that part of the *municipality* which is prescribed by the *Council* for the purposes of this clause 1.7(b), during:

(i) prescribed days or periods; or

(ii) on each day during the race period within the meaning of the *Australian Grand Prix Act 1994* (or its successor legislation) and to 8.00 a.m. on the day immediately following the last day of the race period; or

(iii) on any day during the period specified in a notice signed by the *Council's* Chief Executive Officer as being the period during which Melbourne Moomba Waterfest or any other festival is to occur and to 8.00 a.m. on the day immediately following the last day of the period specified in the notice.

Are there any exemptions from this Local Law?

1.8 Nothing in this Local Law prevents a member, officer or employee of:

(a) the Commonwealth or State Government;

(b) the Victoria Police;

(c) the Metropolitan Fire Brigade;

(d) the Ambulance Service - Victoria;

(e) any first-aid or emergency service organisation;

(f) any military or civil-defence force; or

(g) a *public body* other than the *Council*;

from performing any of the duties he or she is lawfully entitled or required to perform while engaged in those duties, provided that:

(i) 48 hours notice of the person's intention to perform the activity is given to the *Council* beforehand, or

(ii) in the event of an emergency, notice is given as soon as practicable after the activity has been carried out.

1.9 Nothing in this Local Law relating to an *animal* prevents:

(a) a blind or deaf *person* being entitled at all times and in all places to be accompanied by a guide dog; or

(b) a member of the Victoria Police in charge of a police dog or police horse from carrying out police duties.

1.10 The *Council* may *prescribe* specified *persons, premises* or areas within the *municipality* to be exempt from a provision of this Local Law for a specified time and on specified conditions.

Definitions

1.11 The words identified in italics throughout this Local Law are intended to have the following meaning:

"*acceptable no smoking sign*" has the same meaning as in the *Tobacco Act 1987*.

"*Act*" means the *Local Government Act 1989*.

"*advertising sign*" includes any letter, figure, symbol, device, poster, sign, banner or message used for notifying:

(a) the existence of the sale or use of any *goods* or services; or

(b) the holding of an event or function; or

(c) the promotion of any person, company, organisation or thing.

"*animal*" includes a bird, fish and reptile.

"*authorised officer*" means:

(a) a *person* appointed by the *Council* to be an authorised officer under section 224 of the *Act*; or

(b) in respect to the enforcement of Part 3 of this Local Law, upon the *Council* publishing a notice in the Government Gazette under section 224A of the *Act*, any police officer.

"*bicycle*" has the same meaning as in the *Road Safety Road Rules* 2017.

"*body of water*" includes a cascade, fountain, pond, pool and watercourse but does not include a *swimming pool*.

"*building*" includes a part of a building and the whole or any part of a structure, temporary building or structure, fence, gate, wall, *pavement light*, outbuilding, service installation, mast, pole and other appurtenance of a building.

"*building works*" includes works, activities, events and practices for or in connection with the construction, alteration, demolition or removal of a building.

"*central city*" means the area depicted in the *Plan*.

"*child care centre*" means *premises* located on *Council land* used by a person to care for 4 or more children under the age of 13 years, in the absence of their parents or guardians, for the payment of a fee or other consideration.

"*children's playground*" means *Council land* set aside or used for the predominant purpose of a children's play area.

"*Code*" means the Code of Good Practice for Construction Sites adopted by the former Docklands Authority on 22 March 2002, as amended from time to time by the *Council*.

"*construction management plan*" means a description of the proposed strategy to be implemented in relation to the *building works* to ensure:

(a) public amenity and safety are maintained;

(b) *Council* and community assets are protected;

(c) the impact on *green infrastructure* is minimised;

(d) *nuisances* are controlled and prevented;

(e) compliance with the provisions of the *Environment Local Law*;

(f) disruptions to traffic are minimised;

(g) *waste* is managed appropriately; and

(h) appropriate environmental controls are in place.

"*Council*" means the Melbourne City Council.

"Council land" means land, buildings and facilities which are owned or occupied by or vested in the *Council* or in respect of which the *Council* has the care and management to which the public has access whether an entry fee is paid or not.

"crossing" means a crossing for *vehicles* on or over a *road* for the purposes of enabling access to be gained to land next to a *road*.

"*designated sound level*" is the maximum sound level *prescribed* by the *Council* for the purposes of any part of this Local Law.

For the avoidance of doubt the *Council* may:

(a) set more than one *designated sound level* based on factors including the location, the nature of the sound, the activity resulting in the sound; and

(b) *prescribe* the method by which compliance with the *designated sound level* is measured.

"*design and construction standards*" means the Design and Construction Standards for Public Infrastructure Works as amended from time to time by the *Council*.

"*e-cigarette*" has the same meaning as in the *Tobacco Act 1987*.'

"encroachment" includes any object or thing projecting from a *building* on, over or in a *public place*.

"Environment Local Law" means the *Council's* Environment Local Law 2019 as amended from time to time.

"*gas regulator vent stack*" means any ventilation stack used to vent gas located in a *public place* as *prescribed* by the *Council*.

"*goods*" includes food.

"*green infrastructure*" means:

(a) plants, including street and community gardens

(b) plants contained within a pot or container which may be on the ground or suspended from or connected to a building or structure

(c) composting facilities

(d) any item or thing attached to a *tree*

(e) any other infrastructure that supports greening in the *municipality* as *prescribed* by the *Council*.'

"*green waste*" has the same meaning as in the *Environment Local Law*.

"handbill" includes a placard, notice, book, pamphlet, paper and advertisement other than an advertisement affixed to any *building* abutting any *road* or public highway, but does not include a newspaper, magazine or book sold by a newsvendor or other *person* authorised by the *Council* nor any *handbill* containing material of an exclusively political nature distributed by hand to any *person*.

"*hard waste*" has the same meaning as in the *Environment Local Law*.

"*liquor*" means a beverage intended for human consumption with an alcoholic content of 0.5 per centum by volume or greater.

"minor building work" means *building work* valued at less than $5,000.00 but excludes demolition and removal of buildings and structures (regardless of value).

"moor" means to hold, tether, berth or secure a *vessel* in a location by a cable, chain, anchor or other means.

"*municipality*" means the municipality of the *Council*.

"*Notice to Comply*" means a notice given under clause 14.9 of this Local Law.

"*nuisance*" has its ordinary common meaning in this Local Law, except for Part 9, where it is also to include:

(a) any *building works* that emit dust, odour, waste, noxious gases or other *wind blown refuse* beyond the construction site;

(b) the leaving of open and unguarded pits, excavations or basements on a building site which may constitute a risk to public safety or property;

(c) any temporary structure, material, condition or practice constituting a fire hazard or impairing the extinguishing of any fire;

(d) any *building works* that exceed the *designated sound level* prescribed by the *Council*;

(e) any vibrations exceeding the level *prescribed* by the *Council*.

"*occupier*" of *premises* means:

(a) a *person* having the charge, management or control of the *premises*, and

(b) in the case of *premises* that are let out in separate occupancies or a lodging house that is let out to lodgers, the *person* receiving the rent from the tenants or lodgers.

"*owner*" of *premises* means the following:

(a) where the *premises* are Crown land, the owner of the *premises* is the lessee or licensee of the land from the Crown,

(b) where the *premises* are other than Crown land, the owner of the *premises* is:

  (i) every *person* who is jointly or severally entitled to the freehold estate of the land, and

  (ii) every *person* who is, or would be, entitled to receive, or is in receipt of, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise.

"pavement light" means a device incorporated into the footpath or roadway adjacent to *premises* for the provision of natural light to those areas of the *premises* below ground level.

"pedestrian service signs" means signs for the benefit of pedestrians and includes-

(a) identification signs indicating names of areas and precincts;

(b) directional signs indicating direction to areas, attractions and features;

(c) civic maps and maps of an area; and

(d) historical signs, historical plaques, walls and information panels.

"permit" means a permit granted under Part 13 of this Local Law.

"*person*" includes an individual, a corporation, an association incorporated under the *Associations Incorporation Act 1981,* a partnership and an unincorporated association.

"*place*" when used as a verb includes allow to remain.

"*Plan*" means the plan appended to this Local Law.

"*Planning Scheme*" means an applicable planning scheme under the *Planning and Environment Act 1987*.

"*premises*" includes the whole or part of any land, a lot on a plan of subdivision and a *building* or *building* under construction.

"*prescribe*" and "*prescribed*" includes decided or specified by the *Council*.

"*proprietor*" means the *owner, occupier,* lessee, licensee, manager or any other *person* in control or charge of any place or *premises*.

"*public body*" means any government department or municipal council or body established for a public purpose by legislation.

"*public place*" has the same meaning as in the *Summary Offences Act 1966* and, to the extent that it does not include the following, also includes:

(a) any place *prescribed* by the *Council* as a public place, other than an interior part of a *building* which is not occupied by the *Council* or a *public body* unless that part has been *prescribed* by the *Council*;

(b) any place to which the public whether upon or without payment for admittance have or are permitted to have access, but does not include a shopping centre;

(c) any park, garden, reserve or other place of public recreation or resort;

(d) any vacant land or vacant space adjoining any *road*;

(e) any wharf, pier or jetty; and

(f) a *Council building*.

"*recyclable material*" has the same meaning as in the *Environment Local Law*.

"*road*" has the same meaning as in the *Act*.

"*sailboard*" means a surfboard or other light weight device equipped with a sail designed to be propelled on water and includes a windsurfer.

"*segway*" means a two-wheeled, self-balancing electric form of transportation.

"*sell*" includes:

(a) barter, offer or attempt to sell, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale, or allow to be sold or offered for sale; and

(b) sell for re-sale.

"*ski*" includes a water ski, jet ski and surf ski.

"*smoke*" means to:

(a) smoke, hold or otherwise have control over an ignited *tobacco product*;

(b) light a *tobacco product*; or

(c) use an *e-cigarette* to generate or release an aerosol or vapour.

"*smoke free area*" means an area:

(a) identified in Part A of Schedule 2 to this Local Law; or

(b) *prescribed* to be a *smoke free area* in accordance with clause 3A.3.

"*special event*" means an organised sporting, recreational, cultural, commercial or social gathering of people which is held on a *road* or any other *public place prescribed* by the *Council*.

"*spruik*" includes haranguing or addressing members of the public (whether directly or by the use of pre-recorded speech or messages) to encourage members of the public to enter *premises*, purchase *goods* or both.

"*street art*" means artwork in the form of a mural but excludes graffiti such as tagging or stand-alone stencils.

"*swimming pool*" means a facility owned by, vested in or used or arranged by the *Council* for public bathing or swimming purposes, whether managed directly by the *Council* or by others and includes areas of land associated with that facility including all forms of exercise, recreational and associated areas within the enclosure which houses the swimming pool and associated facilities.

"*tobacco product*" has the same meaning as in the *Tobacco Act 1987*.

"*tout*" includes soliciting business to *premises* whether by addressing members of the public directly or the emission of music or other noise calculated to attract business to *premises*.

"*toy vehicle*" means equipment designed to be propelled on land by human power and includes a skateboard, scooter, roller skates and in-line skates but does not include a *bicycle*.

"*traffic control item*" means any sign, mark, structure or device displayed or erected for the purpose of controlling, directing, guiding, regulating or warning drivers or pedestrians, and includes a *traffic control signal*.

"*traffic control signal*" means a device, however operated, which uses words symbols or lights to control or regulate traffic.

"*tree*" includes the trunk, branches, canopy and root system of the tree.

"*vehicle*" means a conveyance which is designed to be or is propelled or drawn by any means, but does not include a train, tram, wheelbarrow, supermarket or shopping trolley, *bicycle, toy vehicle* or *wheelchair*.

"*vessel*" means a craft for travelling on water and includes a boat, dinghy, yacht and catamaran but does not include a *sailboard or ski*.

"*waste*" has the same meaning as in the *Environment Protection Act 1970*.

"*waste container*" means a bin, cart or other receptacle of a kind approved by the *Council* for the purpose of *waste* collection within the *municipality* or part of the *municipality*.

"*wheelchair*" means a vehicle capable of a speed of no greater than 10 kilometres per hour propelled by human or mechanical power used for personal mobility by a *person* with a disability.

"wind blown refuse" means refuse from a building site which is, if left outdoors, capable of or susceptible to being blown away without any human intervention by winds of a strength ordinarily encountered within the municipality in the course of a year.

1.12 Where a word or phrase has a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning.

Part 2
Behaviour

Introduction: This Part contains provisions which aim to protect the amenity of *public places* for all citizens by controlling behaviour in *public places* and by prohibiting persons from causing damage to *public places* or acting in a socially unacceptable manner.

Prohibited activities in *public places*

2.1 A *person* must not in, on or within the hearing or sight of a *public place*:

(a) cause or commit any *nuisance*;

(b) adversely affect the amenity of that *public place*;

(c) interfere with the use or enjoyment of that *public place* or the personal comfort of another *person* in or on that *public place*;

(d) annoy, molest or obstruct any other *person* in or on that *public place*;

(e) defecate or urinate except in a toilet or urinal (as the case may be) in a public convenience; or

(f) commit an indecent or offensive act; or

(g) use any threatening, abusive or insulting words.

2.2 A *person* must not in or on a *public place*:

(a) destroy, damage, alter, mark, deface or remove any property or thing;

(b) walk on or over any plant bed, plant box or garden plot except with the consent of the *proprietor*;

(c) cause risk of personal injury or damage to property by climbing or walking on or over, sitting on or sliding down any structure, *building*, fixture, free standing object, appliance or equipment (other than play equipment or recreation and fitness equipment installed by the *Council*) except with the consent of the *proprietor*;

(d) after having been directed to leave by an *authorised officer*, enter or remain in any area, place, *building* or structure that is not open to the public; or

(e) enter any area, place, *building* or structure in respect of which the *Council* has *prescribed* an entry fee, unless the entry fee has been paid to *an authorised officer* or authorised representative of the *Council* or the *person* enters in accordance with the written consent of the *Council* or the *proprietor*.

Toy vehicles

2.3 A person must not:

(a) use or allow to be used a *toy vehicle* so as to endanger, intimidate or unduly obstruct or hinder any other *person* or *vehicle* lawfully using or intending to use the same area; or

(b) ride a *toy vehicle* in an area *prescribed* by the *Council* in accordance with Clause 2.4 or in breach of a *prescription* made by the *Council* under Clause 2.5.

2.4 The *Council* may *prescribe* a *public place* (other than a road or road related area) within the *municipality* for the purposes of this Clause 2.4 where it considers that the riding of *toy vehicles* is reasonably likely to cause physical damage to infrastructure located within the area to be *prescribed*.

2.5 The *Council* may *prescribe* a *public place* (other than a road or road related area) within the *municipality* where the riding of a *toy vehicle* is restricted at specified times and on specified conditions where it considers that the riding of *toy vehicles* is reasonably likely to interfere with the use and enjoyment of the locality by pedestrians and other members of the public.

2.6 For the purposes of Clauses 2.4 and 2.5, the terms "road" and "road related area" have the meaning as in the *Road Safety Act 1986*.

Note: Maps showing the prescribed area or areas where the riding of a *toy vehicle* is prohibited or restricted are available from the Front Desk, Melbourne Town Hall or by visiting the *Council's* web site at www.melbourne.vic.gov.au

Protection of *trees* and *green infrastructure*

2.7 Unless in accordance with a permit, a *person* must not in or on *Council Land* destroy, damage, remove or otherwise interfere with a *tree* or *green infrastructure* or allow any *person* to destroy, damage, remove or otherwise interfere with a *tree* or *green infrastructure*.

Camping in public places

2.8 Unless in accordance with a *permit*, a *person* must not camp in or on any *public place* in a *vehicle*, tent, caravan or any type of temporary or provisional form of accommodation.

Fencing vacant land

2.9 An *owner* or *occupier* of vacant land which is wholly or partially unfenced must, as soon as practicable after being directed to do so by the *Council* or an *authorised officer*, fence or cause to be fenced all or that portion of the vacant land which was the subject of the *Council's* or the *authorised officer's* direction.

Fences at intersections

2.10 The *owner* or *occupier* of any land situated at an intersection must not erect any fence on the land so as to obstruct the clear view:

(a) by a driver, of any:

(i) Pedestrian;

(ii) *vehicle*; or

(iii) *traffic control item; or*

(b) by a pedestrian, of any:

(i) *vehicle*; or

(ii) *traffic control item*.

2.11 If an *owner* or *occupier* of land has erected a fence in breach or apparent breach of clause 2.9 or 2.10, a *Notice to Comply* may require the *owner* or *occupier* of the land to remove the fence or reconstruct the fence in the manner specified in the *Notice to Comply*.

Part 3
Consumption of *Liquor*

Introduction: This Part aims to provide for the responsible management of *public places* so as to enhance the enjoyment of them by the general public, especially during major events. The provisions control the consumption of *liquor* in *public places* and other places within certain areas of the *municipality* and during certain periods of the year. Clause 1.7 identifies the areas and the periods during the year to which this Part applies.

Consumption and possession of *liquor* is prohibited in certain circumstances

3.1 A *person* must not:

(a) in or at a *public place*; or

(b) in or on a *vehicle* which is on or at a *public place*,

consume any *liquor* or have in his or her possession or control any *liquor* other than *liquor* in a sealed container in that part of the municipality *prescribed* by the *Council* pursuant to clause 1.7 of this Local Law.

Note: A map showing the *prescribed* area or areas where the consumption of *liquor* is prohibited throughout the year is available from the Front Desk, Melbourne Town Hall or by visiting the *Council's* web site at www.melbourne.vic.gov.au To find out details of the area or areas where the consumption of *liquor* may be restricted at other times of the year contact the *Council* or visit the *Council's* web site at www.melbourne.vic.gov.au

3.2 Clause 3.1 does not apply to a *person*:

(a) taking part in a festival or event in respect of which the *Council* has granted a *permit* for *persons* to consume *liquor* or to have in their possession or control any *liquor* other than *liquor* in a sealed container; or

(b) within authorised premises or licensed premises under the *Liquor Control Reform Act 1998* or any subsequent legislation relating to the serving and consumption of *liquor*.

(c) who has been granted a *permit* to take *liquor* into an area *prescribed* by the *Council* pursuant to clause 1.7.

3.3 Where an *authorised officer* believes on reasonable grounds that a *person* is contravening or has contravened clause 3.1, the *authorised officer* may direct the *person* to seal any container or dispose of the contents of any unsealed container.

Part 3A
No Smoking in *Smoke Free Areas*

Introduction: This Part aims to provide for the responsible management of *public places* so as to enhance the enjoyment of them by the general public. The following clauses prohibit smoking *tobacco products* in *smoke free areas* within the *municipality*.

Prohibition on smoking

3A.1 A *person* must not *smoke* a *tobacco product* in a *smoke free area*.

3A.2 Where an *authorised officer* believes on reasonable grounds that a *person* is contravening or has contravened clause 3A.1, the *authorised officer* may direct the *person* to extinguish and then dispose of the *tobacco product*.

Council may prescribe smoke free areas

3A.3 In addition to the *smoke free areas* identified in Part A of Schedule 2 to this Local Law, the *Council* may *prescribe* any other area within the *municipality* to be a *smoke free area*.

3A.4 The *Council* must follow the guidelines incorporated in Part B of Schedule 2 to this Local Law when deciding whether to prescribe an area as a *smoke free area* under clause 3A.3.

3A.5 The *Council* or an *authorised officer* may erect, or cause to be erected, an *acceptable no smoking sign* in a *smoke free area*.

Note: maps showing *smoke free areas* are available from the Front Desk, Melbourne Town Hall or by visiting www.melbourne.vic.gov.au

Part 3B
Animals

Introduction: This Part aims to provide for the responsible care and management of *animals* within the *municipality* including regulating the number and types of *animals* a *person* may keep without a *permit*.

Application of Part 3B

3B.1 This Part does not apply to any land:

(a) on which a pet shop is located;

(b) on which an animal hospital or veterinary practice is located; or

(c) if the use of the land for this purpose is permitted under the Planning Scheme.

Keeping of *animals*

3B.2 A *person* must not, without a *permit*, keep or allow to be kept any more of each species or group of *animal* than *prescribed* by the *Council*.

3B.3 Any structure used for housing an *animal* must be maintained:

(a) in a clean, inoffensive and sanitary condition;

(b) so as not to cause any *nuisance*; and

(c) to the satisfaction of the *Council*.

Animals in a public place

3B.4 A *person* must not feed or leave food for an *animal* in a *public place*.

3B.5 Whenever an *animal* is in or on a *public place*, the owner of the *animal* must have in his or her possession means for the effective collection and removal of any excrement that may be deposited by the *animal*.

3B.6 The owner of an *animal* must immediately collect and remove all excrement deposited by the *animal* in a *public place*.

3B.7 For the purposes of clauses 3B.5 and 3B.6:

(a) the owner of an *animal* includes the *person* who has the *animal* in his or her care for the time being whether the *animal* is restrained, confined or at large; and

(b) *animal* does not include a bird, fish or reptile.

Part 4
Advertising and Use of Shopfronts and *Public Places*

Introduction: This Part contains provisions which aim to enhance the appearance of streets and *public places* by controlling the placement of *advertising signs* in *public places* and on and between *buildings* and *street art* in, or within view from, a *public place* within the *municipality* and the placement of *goods* and the like in *public places*.

Authorisation required for *advertising sign* or other thing on or between *buildings*

4.1 Unless:

(a) in accordance with a *permit*; or

(b) to do so is specifically authorised by and in accordance with legislation or the *Planning Scheme* or a planning permit issued under it; or

(c) no part of the *advertising sign* or other thing is in, on or over a *public place*,

a person must not hang, *place* or affix any *advertising sign* or other thing on or between any part of a *building*, plant, pole, post or other structure or allow that to occur.

Authorisation required for *street art* in, or within view from, a public place

4.2 Unless:

(a) in accordance with a *permit*; or

(b) to do so is specifically authorised by and in accordance with a planning permit issued under the *Planning Scheme*,

a *person* must not apply *street art*, or allow or suffer to allow, *street art* on any part of an outside wall of a *building* such that the *street art* is in, or within view from, a *public place*.

Note: Nothing in this clause is intended to affect the operation of the *Graffiti Prevention Act 2007*.

4.3 Where *street art* is on a *building* in breach of clause 4.2, in addition to any other powers the *Council* has under this Local Law, the *Council* may serve a *Notice to Comply* on the *owner* or *occupier* of the *building* requiring the removal of the *street art*.

4.4 If the person served with a notice under clause 4.3 fails to comply with the notice to the *Council's* satisfaction, the *Council* can take whatever action it considers is necessary to bring the *building* into compliance with the notice.

4.5 Any costs incurred by the *Council* in taking action under clause 4.4, unless otherwise agreed by the *Council*, must be paid by the person served with the notice under clause 4.4 and until such costs are paid with any interest payable, the costs will remain a charge on the *premises* on which the *building* is situated.

Authorisation required for portable *advertising signs* or other things in *public places*

4.6 Unless:

(a) in accordance with a *permit*; or

(b) to do so is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issued under it,

a *person* must not *place* or erect a portable *advertising sign* or other thing in, on or over a *public place* or allow that to occur.

Authorisation required for *goods* in a *public place*

4.7 Subject to clause 4.8, a *person* must not hang, pile or place any *goods* or allow that to occur:

(a) on the roof of or other portion of a verandah; or

(b) on any shopfront or outside wall of *premises*.

4.8 Clause 4.7 does not apply if the placement of an item:

(a) does not protrude over or into a *public place* or cause an obstruction or risk of injury to a *person* or damage to property; or

(b) is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issued under it.

4.9 Unless in accordance with:

(a) a *permit*; and

(b) the consent of the *proprietor* of that place,

a *person* must not place or allow to be placed in a *public place* any planter or similar structure or thing.

Part 4A
Greening Melbourne

Introduction: This Part aims to support greening of and biodiversity within the *municipality* by creating a *permit* process to enable the placing of *green infrastructure* on *Council land* and any other *public place prescribed* by the *Council*.

Authorisation required for *green infrastructure*

4A.1 Without limiting the generality of clause 4.6 of this Local Law, unless:

(a) in accordance with a *permit*; or

(b) to do so is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issue under it, on which an animal hospital or veterinary practice is located;

a *person* must not *place* or erect *green infrastructure* in, on or over *Council land* or any other *public place prescribed* by the *Council*.

Part 5
Street Trading and *Special Events*

Introduction: This Part contains provisions which aim to manage and facilitate responsible trading and entertainment on streets and *public places* to increase the attractiveness and comfort of these places, by controlling the soliciting of gifts and money, busking, *selling* and other behaviour on *public places*.

Permit required for the soliciting of money etc.

5.1 Unless in accordance with a *permit*, a *person* must not solicit or collect a gift of money or subscription or *sell* a raffle ticket in or on a *public place*.

Soliciting trade and similar activities

5.2 Unless in accordance with a *permit*, a *person* must not in a *public place* or from *premises* adjacent to a *public place*, offer to *sell goods* or solicit or try to attract trade or business or *tout* or *spruik* or allow any *person* to solicit or try to attract trade or business or *tout* or *spruik*.

Permit required for selling in a *public place*

5.3 Unless in accordance with a *permit*, a *person* must not *sell* any *good* or service on or in a *public place* or from *premises* adjacent to a *public place* to a *person* in a *public place*.

Permit required for handbills

5.4 Unless in accordance with a *permit*, a *person* must not display or distribute to any *person* any *handbill* in or on a *public* place or allow that to occur.

Permit required for filming and *special events*

5.5 Unless in accordance with a *permit*, a *person* must not in or on a *road* or any other *public place prescribed* by the *Council*:

(a) conduct any *special event*.

(b) conduct any filming where the film is for a commercial purpose, public exhibition or as part of a course conducted by a tertiary institution.

Note: The *Council* will take into account the *Filming Approval Act* 2014 in considering an application for a *permit* under clause 5.5(b).

Permit required for busking

5.6 Unless in accordance with a *permit*, a *person* must not in or on a *public place*:

(a) sound or play a musical instrument, sing, give a recitation or perform any conjuring, juggling, puppetry, mime or dance or other entertainment or do any of those things concurrently; or

(b) draw any message, picture or representation on a wall or pavement surface.

5.7 Unless in accordance with a *permit* or in accordance with clause 12.8, a *person* must not make any noise or allow it to be made by the use or operation of an amplifier or noise-making or enhancing device:

(a) in a *public place*; or

(b) in *premises* adjacent to the *public place* if the noise is capable of being heard in the *public place*.

5.8 Clause 5.7(b) does not apply where the noise involved would not contravene clauses (a) and (b) of clause 12.8.

Causing obstruction

5.9 A *person* must not:

(a) without a *permit*, unreasonably obstruct or interfere with the passage of pedestrian or vehicular traffic in or on a *public place*; or

(b) invite, encourage or allow the congregation of *persons* so as to unreasonably obstruct or interfere with the passage of pedestrian or vehicular traffic in or on a *public place*.

Furniture in a *public place*

5.10 Unless in accordance with a *permit*, a *person* must not place or cause to be placed any furniture in or on a *public place*.

Part 6
Works on *Roads*

Introduction: This Part contains provisions which aim to minimise the impact of works on *roads* on the amenity of the *municipality* and its residents by ensuring that obstructions do not interfere with the public's reasonable use of *roads*.

Permit required for *road* interference

6.1 Unless in accordance with a *permit*, a *person* must not:

(a) erect a hoarding or overhead protective awning on a *road*;

(b) install a temporary or permanent *crossing*;

(c) occupy or fence off part of a *road*;

(d) use a mobile crane, travel tower, lift or tackle on or above a *road*;

(e) make a hole in, excavate, damage or remove part of any *road*; or

(f) install, alter or remove:

(i) a *pavement light*;

(ii) any object including a sign, tactile indicator or planter box on in or over a *road*;

(iii) a fence, gate or retaining wall on or in a *road*;

(iv) an *encroachment*.

(g) enter or leave a site where *building works* are being conducted from a point other than a temporary or permanent *crossing*.

6.2 A *person* who breaches clause 6.1(e) shall be liable to repair, replace or reconstruct the *road* within 30 days of being requested to do so by an *authorised officer*.

Part 7
Building Standards

Compliance with Code

7.1 A *person* must comply with any obligation imposed by the *Code*.

Compliance with the design and construction standards

7.2 A *person* to whom the *design and construction standards* apply must comply with any obligation imposed by the *design and construction standards*.

Notification of the Office of Gas Safety

7.3 Prior to considering an application for a *permit* or licence for any structure, event or occupation of any area within 39 metres of a *gas regulator vent stack*, the applicant for the *permit* or licence must refer the application to Energy Safe Victoria, which may require the refusal of the *permit* or licence or inclusion of conditions in any *permit* or licence issued. Details of the application must also be notified to Energy Safe Victoria.

7.4 The *Council* will consider any requirement of the Office of Gas Safety before deciding whether to grant or refuse an application of the type described in clause 7.3.

Part 8
Water Activities

Prohibition on water activities

8.1 Unless in accordance with a *permit*, a *person* must not in or on a *public place*:

(a) bathe, paddle, swim or wade in any *body of water* or allow an *animal* to do so, unless the *body of water* has been *prescribed* for that purpose; or

(b) deposit, throw or otherwise place anything on or into any *body of water*.

Mooring

8.2 A *person* must not, without a *permit*, *moor* any *vessel* on or along any *body of water*.

Behaviour

8.3 A *person* must not, while aboard a *vessel* on a *body of water*:

(a) engage in any activity which is dangerous to any other *person*;

(b) use an amplifier or electronic device so as to interfere with the use or enjoyment of the *body of water* or any adjacent land by any other *person* except as permitted by the *Council* or an *authorised officer*; or

(c) interfere with the reasonable use and enjoyment of a *body of water* or any adjacent land by any other *person*.

8.4 A *person* must not take a *sailboard* or *ski* onto a *body of water* other than in an area *prescribed* by the *Council* as being an area set aside for *sailboards* or *skis*.

Part 9
Building Works (Nuisance Abatement)

Introduction: This Part contains provisions which aim to improve the amenity of the *municipality*, in particular residential areas, by preventing *nuisances* caused by *building works*.

Notice to be given before commencing *building works*

9.1 A *person* must not commence to carry out *building works* (other than *minor building works)* unless he or she gives at least 48 hours written notice to the *Council* of his or her intention to do so.

9.2 A notice under clause 9.1 must be in the form *prescribed* by the *Council* and if requested, include a *construction management plan* which must be approved by the *Council* prior to commencement of *building works*.

Note: The *Council* requires a person to notify it prior to commencing any *building works* in order to ensure that all matters associated with the proposed *building works* are dealt with. This is to control and prevent potential damage to the environment and minimise any *nuisance* to those people in the vicinity of the *building works*.

9.3 A *construction management plan* may be modified with the consent of the *Council*.

9.4 A *person* involved in the carrying out of *building works* must comply with a *construction management plan* approved under clause 9.2 or modified under clause 9.3.

Building works are confined to certain times and places

9.5 Except in the case of an emergency or in accordance with a *permit*, a *person* must not carry out *building works* or cause *building works* to be carried out unless the works are carried out between the hours of:

(a) 7.00am and 7.00pm Monday to Friday; and

(b) 8.00am and 3.00pm on Saturday.

Building works on a dwelling are confined to certain times and places

9.6 Notwithstanding clause 9.5, a *person* may carry out *building works* or cause *building works* to be carried out on a dwelling:

(a) if the works are carried out on any day between the hours of:

(i) 7.00am and 7.00pm Mondays to Fridays;

(ii) 8.00am and 6.00pm on Saturdays;

(iii) 9.00am and 6.00pm on Sundays; and

(b) the *person* is the *owner* or *occupier* carrying out the *building works* himself or herself and no other person is engaged for fee or reward; and

(c) the *person* is complying or observing any direction, notice or order of the *Council, authorised officer* or any public authority.

9.7 Notwithstanding clause 9.6, a *person* may carry out *minor building work* on a dwelling at times other than those specified in clause 9.6(a) provided that the works do not exceed the *designated sound level prescribed* by the *Council*.

Wheels of *vehicles* to be kept clean

9.8 A *person* must not drive a *vehicle* on to any *road* from *premises* upon which any filling, excavation, landscaping, *building works* or demolition operation is being or has recently been carried out unless the wheels and undercarriage of the *vehicle* are clean.

Nuisances

9.9 A *person* must not carry out *building works* or cause *building works* to be carried out so as to create a *nuisance*.

Directions by authorised officer

9.10 An *authorised officer* may, either orally or in writing, direct any *person*:

(a) found carrying out or suspected of carrying out *building works* in contravention of this Local Law or a *permit* granted under this Local Law; or

(b) apparently in charge of *premises* where *building works* are being or are suspected of being carried out in contravention of this Local Law or a *permit* granted under this Local Law,

(c) to cease carrying out those *building works* immediately or as soon as practicable.

Part 10
Dilapidated, Dangerous and Unsightly *Premises*

Introduction: This Part contains provisions which aim to ensure that the appearance of *buildings* in the *municipality* are consistent with an image of the *municipality* that is safe, attractive and well maintained by controlling *premises* that have been allowed to reach a dilapidated, unsightly or dangerous condition.

Dilapidated *premises*

10.1 Where in the opinion of the *Council*, *premises* are in a dilapidated state, including where:

(a) the exterior of any *building* is in a state of disrepair or has been damaged or defaced so as to affect the visual amenity of the property or the area in which it is located;

(b) any architectural features of the *building* are not properly maintained; or

(c) *pavement lights*, tactile indicators or other *encroachments* are in a state of disrepair which may be dangerous or likely to cause a danger to any *person*,

the *Council* may serve a *Notice to Comply* in accordance with clause 14.9 of this Local Law specifying the work required to correct the dilapidated state.

Dangerous and unsightly *premises*

10.2 An *owner* or *occupier* of *premises* must ensure that all necessary steps are taken to prevent fires and minimise the possibility of the spread of fire by regularly minimising the build-up of grass, weeds, scrub, undergrowth and any other material or substance on or in the *premises* and ensuring that there is no storage of such material likely to assist in the spread of fire.

10.3 Where the *Council* is of the opinion that the condition of any *premises* may contribute to the spread of fire, the *Council* may serve a *Notice to Comply* in accordance with clause 14.9 of this Local Law specifying the work required to correct the condition of the *premises*.

10.4 An *occupier* of *premises* must not cause or allow his or her *premises* –

(a) to be kept in a manner which in the opinion of the *Council* is dangerous or likely to cause danger to health or property; or

(b) to contain, in the opinion of the Council, noxious weeds, insects, excessive vegetation growth or be a haven for vermin.

10.5 Where the *Council* is of the opinion that the condition of any *premises* is as described in Clause 10.4 the *Council* may serve a *Notice to Comply* in accordance with clause 14.9 of this Local Law specifying the work required to correct the condition of the *premises*.

10.6 An *occupier* of *premises* must not cause or allow his or her *premises* to be kept in a condition which in the opinion of the *Council* is unsightly or is detrimental to the general amenity of the neighbourhood.

10.7 Where the *Council* is of the opinion that the *premises* –

(a) contains unconstrained rubbish; or

(b) contains disused excavation or *waste* material;

(c) for any other reason that may be determined by the *Council* from time to time is unsightly or detrimental to the general amenity of the neighbourhood,

the *Council* may serve a *Notice to Comply* in accordance with clause 14.9 of this Local Law specifying the work required to correct the condition of the *premises*.

Compliance with a Notice

10.8 A *Notice to Comply* is to be served on the *occupier* of the *premises* or, if one of the following circumstances exist, on the *owner* of the *premises*:

(a) the *occupier* of the *premises* cannot, after reasonable enquiry, be located; or

(b) the *occupier* no longer occupies the *premises*; or

(c) the *premises* are unoccupied.

10.9 In addition to any other means of enforcement provided by this Local Law, if the *person* served with a notice under clauses 10.1, 10.3, 10.5 and 10.7 fails to comply with the notice to the *Council's* satisfaction, the *Council* can take whatever action it considers is necessary to bring the *premises* into compliance with the notice.

10.10 Any costs incurred by the *Council* in taking action under clause 10.9 (including, without limitation, the cost of carrying out *building work*, the erection of hoardings and barricades and the removal of material from the *premises*), must be paid by the *person* served with the notice under clause 10.1, 10.3, 10.5 and 10.7 and until such costs are paid with any interest payable, the costs will remain a charge on the *premises*.

Part 11
Naming of *Roads* and Numbering of *Premises*

Introduction: This Part contains provisions to provide for the making of clear signage of *road* names and street numbers to assist in the management of the *municipality* and assist emergency services.

Naming of *roads*

11.1 No person may give, approve or allot a name to any *road* without the approval of the *Council*.

Allocation of numbering

11.2 The *Council* may allot to *premises* within the *municipality* such numbers as it considers necessary to identify these *premises* and may from time to time make such changes as it deems fit.

Requirement to number *premises*

11.3 The *owner* of *premises* must clearly mark his or her *premises* with the numbers allotted by the *Council* and must renew the numbers as often as may be necessary.

11.4 Where the *Council* is unable to find or identify the *owner* of *premises*, the *occupier* of those *premises* must comply with clause 11.3.

Council may number premises

11.5 The *Council* may where *premises* are not marked by the *owner* or *occupier* with the number allotted, cause the *premises* to be numbered and recover the cost of doing so from the *owner* or *occupier* (as the case may be) as a debt due to the *Council*.

Interfering with numbers and street signs

11.6 A *person* must not:

(a) destroy, pull down, obliterate or deface the name of any *road*, or the name or number of any *premises*; or

(b) paint, affix or set up any name to any *road*, or any name or number to any *premises*, contrary to the provisions of this Local Law.

Removal of unlawful sign or number

11.7 The *Council* may cause a *road* name or number unlawfully or incorrectly painted, affixed or set up to be removed, obliterated or destroyed.

Part 12
Miscellaneous

Introduction: This Part contains provisions that aim to regulate and prohibit activities in *public places* not elsewhere covered by this Local Law to improve the amenity of the *municipality* and to protect other assets of the *Council* (such as *pedestrian service signs*).

Authorisation required for discharges

12.1 Unless:

(a) in accordance with a *permit*; or

(b) to do so is specifically authorised by and in accordance with legislation or approval issued under it,

a *person* must not allow any material including dust, wastewater, *waste*, mud, concrete, paint, oil or chemicals to be blown, conveyed, deposited or discharged in, on or across any *public place* (whether from a *building* in the course of construction, alteration, demolition or otherwise).

Prohibition on *vehicles* remaining in *public places*

12.2 Unless in accordance with a *permit*, a *person* must not:

(a) bring a *vehicle* into or on or allow it to remain in or on a *public place*; or

(b) ride a *segway* or *bicycle* in or on a *public place*,

except:

(c) where that *public place* is a road or road related area; or

(d) in the case of a *bicycle*, where that *public place* is a pathway designated for use by *bicycles*.

12.3 In clause 12.2(c), road and road related area have the meanings as defined in the *Road Safety Act 1986*.

Repairing *vehicles*

12.4 A *person* must not dismantle, paint, carry out maintenance or repair a *vehicle* on a road except where it is necessary to enable the *vehicle* to be removed or so that it can be driven away within one hour of a request by an *authorised officer*.

Interfering with a pedestrian service sign

12.5 A *person* must not:

(a) destroy, remove, paint, obliterate or deface a *pedestrian service sign*; or

(b) install or cause to be installed a *pedestrian service sign* without the approval of the *Council*.

Removal of unlawful signs

12.6 The *Council* may cause any unlawfully erected *pedestrian service sign* to be removed and disposed of.

General obstructions

12.7 A *person* must not allow any vegetation, *building* or thing to protrude from *premises* so as to obstruct or interfere with the passage of pedestrians or vehicular traffic in or on a *public place*.

Prohibition against causing excessive noise

12.8 Unless specifically authorised by and in accordance with legislation, a *person* must not in, on or over a *public place* or in *premises* adjacent to such a *public place* make or allow the making of a noise which:

(a) is capable of interfering with the reasonable comfort of any *person* who may be in the vicinity in that *public place;* or

(b) at a point:

(i) if the noise comes from *premises* adjacent to a *public place:*

(A) not less than 3 metres from but outside and adjacent to the frontage of the *premises;* or

(B) outside but near the rear boundary of the *premises; or*

(C) outside but near the side boundary or extension of the side boundary of the *premises;* or

(ii) if the noise comes from a *public place*, not less than 3 metres from the source of the noise,

exceeds the *designated sound level* when measured on sound level measuring equipment.

Deliveries to and collections of *goods* from *premises*

12.9 Deliveries of any *goods* to or collections of any *goods* from any non-residential *premises* must only be made on such days and at such times as are *prescribed* by the *Council*.

Waste

12.10 *Waste* including *hard waste, green waste* and *recyclable material* from any *premises* must only be collected on such days and at such times as are *prescribed* by the *Council*.

12.11 A *person* must not collect *waste* or allow *waste* to be collected from an area *prescribed* by the *Council* between 11.01pm and 5.59am on the following day.

12.12 A *person* must not, unless in accordance with a *permit*, collect *waste* or allow *waste* to be collected from:

(a) an area *prescribed* by the *Council* between 6.00am and 11.00pm on the same day; or

(b) any part of the *central city*.

12.13 A *permit* granted under clause 12.12 may contain conditions requiring the holder of the *permit* to:

(a) ensure that each *waste container* left out for collection is marked with a unique identification number and details of the frequency with which *waste* is intended to be collected from the *waste container*;

(b) maintain a database of *waste containers*, showing the occupier of *premises* in respect of which each *waste container* was issued; and

(c) ensure that the *permit* or a copy of the *permit* is at all times prominently displayed on each *vehicle* used in the collection of the *waste*.

12.14 A *person* must not leave or allow to be left a *waste container* in or on a *public place* unless it is:

(a) marked with the address of the *premises* in respect of which it was issued and a telephone contact number;

(b) clean on all external surfaces including being free from visible food matter and other debris;

(c) airtight, securely closed and sealed; and

(d) for the purpose of having *waste* collected and not before 6.00pm the evening before the collection day.

12.15 Further to the requirement in clause 12.14 a *person* must not leave or allow to be left a *waste container* in or on an area *prescribed* by the *Council* unless it is locked, provided that the *Council* takes into account the following matters before *prescribing* such an area:

(a) pedestrian and vehicular traffic;

(b) safety;

(c) noise;

(d) any other consideration it deems relevant.

12.16 Between the hours of 7am and 7pm, once *waste* has been collected from a *waste container*, a *person* must not keep or allow that *waste container* to remain in or on a *public place* other than an area *prescribed* by the *Council* for the storage of *waste containers*, for more than 3 hours in the *central city* or other area *prescribed* by the *Council* and 24 hours in all other locations.

Part 13
Permits

When is a *permit* required under this Local Law?

13.1 Where in this Local Law a *person* is prohibited from doing a thing "unless in accordance with a *permit*", a *person* who does the thing which is prohibited to be done without first obtaining a *permit* from the *Council* under this Part is guilty of an offence.

13.2 The *Council* may grant a *permit* subject to such conditions as it thinks fit.

Fee required

13.3 The fee payable for the granting of a *permit* is the fee that is *prescribed* by the *Council*.

Further information may be required

13.4 The *Council* may require an applicant to provide it with more information before it deals with the application for a *permit*.

Notice may be required

13.5 The *Council* may require the applicant to give notice of the application for a *permit* in the manner *prescribed* by the *Council*.

Duration of *permit*

13.6 Except where expressly stated in this Local Law or in a *permit*, a *permit* operates from the date it is issued and expires one year after the date of issue.

Correction of *permits*

13.7 The *Council* may correct a *permit* if that *permit* contains:

(a) an unintentional error or an omission; or

(b) a material miscalculation or a material mistake in the description of a *person*, thing or property.

13.8 The *Council* must notify a *permit* holder in writing of any correction under clause 13.7.

Exemptions

13.9 The *Council* may by written notice exempt any *person* or class of *persons* from the requirement to have a *permit*, either generally or at specified times;

13.10 An exemption under clause 13.9 may be granted subject to conditions.

13.11 A *person* must comply with the conditions of an exemption under clause 13.9.

13.12 An exemption under clause 13.9 may be cancelled or corrected as if it were a permit.

Cancellation of a *permit*

13.13 The *Council* may cancel a *permit* if it considers that:

(a) there has been a serious or ongoing breach of the conditions of the *permit*;

(b) a *Notice to Comply* has been issued, but not complied with within seven days after the time specified in the *Notice to Comply;*

(c) there was a significant error or misrepresentation in the application for the *permit; or*

(d) in the circumstances, the *permit* should be cancelled.

13.14 Before it cancels a *permit* under clause 13.13, the *Council* must provide to the *permit* holder an opportunity to make comment on the proposed cancellation.

Part 14
Enforcement

Offences

14.1 A *person* who:

(a) fails to comply with this Local Law; or

(b) fails to comply with a condition of a *permit*; or

(c) fails to do anything directed to be done under this Local Law; or

(d) knowingly submits erroneous, inaccurate or misleading information in an application for a *permit*; or

(e) refuses or fails to obey directions of an *authorised officer* to leave a *public place* where in the opinion of that *authorised officer* the person has failed to comply or is failing to comply with this Local Law; or

(f) fails to comply with a sign erected by the *Council*,

is guilty of an offence.

Infringement notices

14.2 As an alternative to prosecution, an *authorised officer* may serve an infringement notice on a *person* who:

(a) has done one or more of the things described in clause 14.1; or

(b) is reasonably suspected of having done one or more of the things described in clause 14.1.

14.3 The fixed penalty in respect of an infringement notice is the amount set out in the Schedule to this Local Law. For offences not specified in Schedule 1 the penalty is 1 penalty unit.

Offences by Corporations

14.4 If a *person* charged with an offence against this Local Law is a corporation, any *person* who is concerned or takes part in the management of that corporation may be charged with the same offence.

14.5 If the corporation is convicted of an offence against this Local Law, a *person* charged under clause 14.4 with the same offence may also be convicted of the offence and is liable to the penalty for that offence unless that *person* proves that the act or omission constituting the offence took place without his or her knowledge or consent.

Court fines

14.6 A *person* guilty of an offence against this Local Law is liable to a penalty:

(a) not exceeding 20 penalty units; and

(b) for a continuing offence, not exceeding 2 penalty units for each day after the conviction during which the contravention continues.

Costs incurred by the *Council* to be paid

14.7 All costs incurred by the *Council* under this Local Law must be paid by the *owner* or *occupier* of the *premises* concerned and until such costs are paid with any interest payable, the costs remain a charge on the *premises*.

Notice to Comply and directions

14.8 An *authorised officer* may either orally or in writing direct a *person* to leave a *public place* if in the opinion of the *authorised officer* the *person* is failing to comply or has failed to comply with this Local Law.

14.9 Either as an alternative or in addition to an infringement notice, an *authorised officer* may serve a *Notice to Comply* under this clause on a *person* who the *authorised officer* reasonably suspects to be in breach of this Local Law.

14.10 A *Notice to Comply* under clause 14.9 must be in writing and in a form approved by the *Council*.

14.11 A *Notice to Comply* under clause 14.9 may do one or more of the following things:

(a) direct the *person* to comply with this Local Law;

(b) direct the *person* to stop the conduct which constitutes the breach of this Local Law;

(c) direct the *person* to deliver up to the *authorised officer* or to some specified person or some specified location any item or property of the *person* which constitutes the breach of this Local Law;

(d) direct the *person* to remove or cause to be removed any item, *goods*, equipment or other thing that constitutes a breach of this Local Law;

(e) direct the *person* to leave an area within the time specified in the notice that constitutes a breach of this Local Law.

14.12 A *Notice to Comply* under clause 14.9 must specify the time and date by which the *person* specified in the *Notice to Comply* must comply with the directions in clause 14.11.

14.13 The time required by a *Notice to Comply* under clause 14.9 must be reasonable in the circumstances having regard to:

(a) the amount of work involved; and

(b) the degree of difficulty; and

(c) the availability of necessary materials or other necessary items; and

(d) climatic conditions; and

(e) the degree of risk or potential risk; and

(f) any other relevant factor.

14.14 A *person* served with a *Notice to Comply* under clause 14.9 must comply with a direction contained in the notice.

Power of *authorised officer* to act in urgent circumstances

14.15 Any *authorised officer* may in urgent circumstances arising as a result of a failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a *Notice to Comply* provided:

(a) he or she considered the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a *Notice to Comply,* may place a *person, animal,* property or thing at risk or in danger; and

(b) details of the circumstances and remedying action are forwarded as soon as practicable to the *person* on whose behalf the action was taken.

14.16 The action taken by an *authorised officer* under 14.15 must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.

Power of *authorised officer* to confiscate

14.17 Where a *person* owning or responsible for items, *goods*, equipment, *vessel, bicycle* or other property or thing has ignored a direction from an *authorised officer* to remove them, the items, *goods*, equipment, *vessel, bicycle* or other property or thing may be confiscated and impounded.

14.18 If an *authorised officer* has confiscated anything in accordance with this Local Law, the *Council* may refuse to release it until the appropriate fee or charge *prescribed* by the *Council* for its release has been paid to the *Council*.

14.19 As soon as it is reasonably practicable to do so, the *authorised officer* must serve a written notice in a form that is prescribed by the *Council* from time to time on the *owner* or person responsible for the confiscated item setting out the fees and charges payable and time by which the item must be retrieved.

14.20 If after the time required in a notice a confiscated item is not retrieved, an *authorised officer* may take action to dispose of the confiscated item according to the following principles:

(a) where the item has no saleable value, it may be disposed of in the most economical way; and

(b) where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in sub-clause (a);

(c) where the *owner* has advised the *Council* in writing that the *Council* may dispose of the *goods* because he or she does not intend to retrieve them, the *Council* may dispose of them by the method identified in sub-clauses (a) and (b).

Part 15
Delegations

15.1 The *Council* may by instrument of delegation delegate any of its powers, functions and duties under this Local Law to a member of its staff.

15.2 A reference in an instrument of delegation to a delegate by way of the delegate's position with the *Council* includes:

(a) a *person* authorised to carry out the powers, duties and functions of that position at the *Council*;

(b) a *person* acting in that capacity; or

(c) if that position at the *Council* ceases to exist, any *person* exercising any power, duty or function which was previously a power, duty or function of the previous position.

Activities Local Law
Schedule 1
Penalties Fixed for Infringements

Clause	Offence	Penalty (Penalty Units)
2.1; 2.2	Prohibited activities in *public places*	2.5
2.3	Misuse of *toy vehicles*	1
2.7	Destroying or causing damage to *trees*	5
2.8	Camping in *public places*	2.5
2.9	Fencing vacant land	5
2.10	Fences at intersections	2
3.1; 3.3	Consumption / possession of *liquor* in prohibited area	1
3A.1	*smoke* in a *smoke free area*	1
3B.2	Keeping of *animals*	2.5
3B.3	Housing of *animals*	2.5
3B.4	Feeding of *animals* in a *public place*	1
3B.5; 3B.6	*animal waste* disposal	2.5
4.1	Unauthorised *advertising sign* or thing on or between *buildings*	5
4.2	Unauthorised display of *street art* in, or within view from, a *public place*	10
4.6	Unauthorised portable *advertising sign* or other thing in *public place*	2.5
4.7; 4.9	Unauthorised display of *goods* in a *public place*	5
4A.1	Unauthorised *green infrastructure*	2.5
5.1	Soliciting/collecting for money or subscription or *selling* a raffle ticket without a *permit*	2.5
5.2	Soliciting trade, or *touting* or *spruiking* without a *permit*	5
5.3	*selling* without a *permit* in a *public place*	5
5.4	Distribution/display of *handbills* without a *permit*	5
5.5	Filming or conducting a *special event* without a *permit*	5
5.6	Busking without a *permit*	5
5.7	Causing excessive noise	5
5.9	Causing pedestrian / vehicular obstruction	5
5.10	Placing furniture in a *public place* without a *permit*	10
6.1	*road* works undertaken without a *permit*	10
7.1	Failure to comply with the *Code*	20
7.2	Failure to comply with the *design and construction standards*	20
7.3	Failure to refer application to the Office of Gas Safety	10
8.1	Water activities without a *permit*	2.5
8.2	*mooring* without a *permit*	10
8.3	Prohibited behaviour on a *vessel*	5

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Clause	Offence	Penalty (Penalty Units)
8.4	Prohibited activities on water	5
9.1	Failure to give 48 hours notice before commencing *building* works	10
9.4	Failure to comply with a *construction management plan*	20
9.5	*building works* out of hours without a *permit*	20
9.6	*building works* on a dwelling out of hours	5
9.7	*building works* carried out on a dwelling exceeding the *designated sound level*	10
9.8	Dirty wheels / undercarriage of construction *vehicles*	10
9.9	*building works* creating a *nuisance*	10
11.1	Unauthorised naming of *roads*	2.5
11.3; 11.4	Failure to clearly number *premises*	2.5
11.6	Interference with numbers or street signs	2.5
12.1	Unauthorised discharge of material in a *public place*	10
12.2	*vehicle*, *bicycle* or *segway* without a *permit* in or on a *public place*	2.5
12.4	Repairing a *vehicle* on a *road*	5
12.5	Interfering with a *pedestrian service sign*	2.5
12.7	General obstructions from *premises* into a *public place*	2.5
12.8	Causing excessive noise	5
12.9	Delivery or collection of *goods* causing a *nuisance*	20
12.10	Collection of *waste* from *premises*	20
12.11	Collection of *waste* from *prescribed* area	20
12.12	Collection of *waste* from *prescribed* area or *central city*	20
12.14	Leaving *waste container* in or on *public place*	10
12.15	requiring *waste container* be locked in *prescribed* areas	10
12.16	Leaving *waste container* for more than the permitted time	10
2.11,14.9, 14.14	Failure to comply with a *Notice to Comply*	10

Schedule 2

Part A – Smoke Free Areas

The following areas are *smoke free areas* for the purposes of clause 3A of this Local Law:

1. any *children's playground*, and any area abutting such *children's playground*, *prescribed* by the *Council*; and

2. any parcel of land on which a *child care centre* is located, and any area abutting such parcel of land, *prescribed* by the *Council*.

Part B – Guidelines for Prescribing Smoke Free Areas

When determining whether to *prescribe* a *smoke free area* for the purposes of clause 3A.3 of this Local Law, the *Council* must have regard to the following factors:

1. the size of the proposed *smoke free area*;

2. the opinions of any *Person* who is the *Owner* or *Occupier* of any part of the proposed *smoke free area* or the area immediately adjoining the proposed *smoke free area*;

3. the proximity of the proposed *smoke free area* to a *public place*, part or all of which is not in a *smoke free area*;

4. the extent and outcome of any public consultation on the proposed *smoke free area*;

5. any benefits to the community which would be achieved by the *Council prescribing* the proposed *smoke free area*; and

6. any detriments to the community which would be caused by the *Council prescribing* the proposed *smoke free area*.

Attachment 6 - Melbourne - Activities-local-law-2019

Annexure (Plan)

This document is issued by the Melbourne City Council.

Moreland City Council

Moreland City Council

General Local Law 2018

Adopted by 6 December 2017

Gazetted 14 December 2017

Commencement date 1 February 2018

Sunset date 1 February 2028

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Attachment 7 - Moreland - General-local-law-2018

Moreland City Council

General Local Law 2018

Part 1

Preliminary

Title

1.1 This Local Law is called the "General Local Law 2018".

What are the objectives of this Local Law?

1.2 The objectives of this Local Law are to:

(a) promote a physical and social environment that is accessible and free from hazards to health, in which the residents of and visitors to the *municipality* can enjoy a quality of life that meets the general expectations of the community;

(b) protect the use of *public places* and control activities in, on or near them;

(c) provide for safety in *public places*;

(d) control, protect and conserve the environment and maintain the amenity of the *municipality*;

(e) provide for, control and manage the use of *premises* and *vehicles* in particular circumstances;

(f) regulate the number and manner of keeping of *animals*;

(g) control, prevent and abate *nuisances*; and

(h) provide for the peace, order and good government of the *municipality*.

What authorises this Local Law?

1.3 This Local Law is made under the provisions of section 111(1) of the *Local Government Act 1989* and the *Domestic Animals Act 1994*.

When does this Local Law commence?

1.4 This Local Law commences on the 1 February 2018.

1.5 Upon this Local Law becoming operative, the General Local Law 2007 and the Environmental and Civic Assets Local Law 2014 are revoked.

To what part of the *municipality* does this Local Law apply?

1.6 This Local Law applies throughout the whole of the *municipality*.

Are there any exemptions from this Local Law?

1.7 This Local Law does not prevent a member, officer or employee of:

(a) the Commonwealth or State Government;

(b) the Victoria Police;

(c) the Metropolitan Fire Brigade;

(d) the Ambulance Service - Victoria;

(e) any first-aid or emergency service organisation;

(f) any military or civil-defence force; or

(g) a *public body* other than the *Council*;

from performing any of the duties he or she is lawfully entitled or required to perform while engaged in those duties, provided that:

(a) where practicable, 48 hours notice of the person's intention to perform the activity is given to the Council beforehand, or

(b) in the event of an emergency, notice is given as soon as practicable after the activity has been carried out.

1.8 This Local Law relating to an *animal* does not prevent:

(a) a blind or deaf person being entitled at all times and in all places to be accompanied by a guide dog; or

(b) a member of the Victoria Police in charge of a police dog or police horse from carrying out police duties.

1.9 The *Council* may *prescribe* specified *persons*, *premises* or areas within the *municipality* to be exempt from a provision of this Local Law for a specified time and on specified conditions.

Definitions

1.10 The words identified in italics throughout this Local Law are intended to have the following meaning:

Act	means the *Local Government Act 1989*
advertising sign	includes any letter, figure, symbol, device, poster, sign, banner or message used for notifying: a) the existence of the sale or use of any goods or services; or b) the holding of an event or function; or c) the promotion of any *person*, company, organisation or thing.
animal	means every specimen of four legged animal, *domestic birds*, fish and reptiles.
appointed agent	means a *person* authorised by an *owner* of land to make an application on the *owner*'s behalf.
Asset Protection Permit	means a permit issued under Clause 9.5 for the protection of Council land, *Council assets* and roads during *building work*
Authorised Officer	means: (a) a *person* appointed by the *Council* to be an *Authorised Officer* under section 224 of the *Act*; or (b) in respect to the enforcement of this Local Law, upon the *Council* publishing a notice in the Government Gazette, under section 224A of the *Act*, any police officer.
builders refuse	includes any domestic or commercial waste, debris, substance or rubbish generated by or in connection with *building* work.
building	includes a part of a *building* and the whole or any part of a structure, temporary *building* or structure, fence, gate, wall, outbuilding, service installation, mast, pole and other appurtenance of a *building*.
building site	means any land on which *building work* is being, or is proposed to be, carried out.
building works	includes works, activities, events and practices for or in connection with the construction, alteration, re-blocking, underpinning, demolition or removal of a building; and includes any change to the natural or existing condition or topography of land including but not limited to trenching, digging, excavating or filling whether by mechanical or manual methods and the loading or unloading of any goods or materials for or in connection with any building work.

bulk rubbish container	means a bin, skip or other similar container used for the deposit of waste, but excludes a Council approved *waste container*.
caravan	includes a mobile home or moveable dwelling.
camp	includes to live or stay in a *vehicle*, boat, tent or any other structure capable of providing accommodation.
children's playground	means *Council land* set aside or used for the predominant purpose as a children's play area.
commercial fitness activities	means any individual or group fitness activities involving a commercial fitness or sports trainer who derives a payment or reward, either directly or indirectly.
Construction Management Plan	means a description of the proposed strategy to be implemented in relation to the *building works* to ensure: (a) public amenity and safety are maintained; (b) *Council* and community assets are protected; (c) *nuisances* are controlled and prevented; (d) disruptions to traffic are minimised; (e) *waste* is managed appropriately; and (f) appropriate environmental controls are in place.
construction period	means the period during which *building works* are being carried out.
Council	means the Moreland City Council.
Council asset	means any asset, item or thing located in, on or under a *public place*, *including* a structure, *building*, fixture, freestanding object, appliance, equipment, drain, *tree*, bridge, turf, cricket pitch, service conduit, sign, hydrant or any other infrastructure listed in Council's Asset registers, that is not owned by another *person* or public body.
Council land	means land, *buildings* and facilities which are owned or occupied by or vested in the *Council* or in respect of which the *Council* has the care and management to which the public has access whether an entry fee is paid or not.
crossing	means a pavement to provide access over any footpath, *roadside* or channel in a *road* for the purpose of enabling access to be gained to *premises* from the *road*.
domestic birds	means canary, budgerigar, finch, cockatiel or other like sized bird kept caged or within *premises* but excludes chickens, poultry, pigeons, *racing pigeons*, galahs, cockatoos and other birds *prescribed* by *Council*.
encroachment	includes any object or thing projecting from a *building* on, over or in a *public place*.

exclusion zone	means any of the following areas within a *recreational reserve*: (a) 10 metres from any memorial; (b) 10 metres from any playground or play equipment; (c) 10 metres from any public change room or toilet; (d) 15 metres from any residential dwelling; (e) any sports field or facility without a specific booking; (f) stairways and pathways; and (g) picnic or public barbecue area.
footway	includes every footpath, land or other place within the municipal district used by pedestrians, but excludes a *road* or reserve.
garbage bin	means a bin issued by Council to premises for the purpose of waste collection of household waste specified by Council not including those items accepted in the recycling collection and green waste collection
green waste bin	means a bin issued by Council to premises for the purpose of waste collection of garden waste
handbill	includes a placard, notice, book, pamphlet, paper and advertisement other than an advertisement affixed to any *building* abutting any *road* or public highway, but does not include any material of an exclusively political nature distributed to any *person*.
heavy vehicle	has the same meaning as in the *Road Safety Act 1986*.
keep	in relation to *animals*, means to have the care, charge or custody of, or to keep an *animal* as a pet, or to allow the *animal* to exist or remain on premises. In the case of wild, feral or stray *animals*, to proactively encourage the *animal* to remain on premises by feeding the *animal*.
liquor	means a beverage intended for human consumption with an alcoholic content of at least 0.5%.
mature tree	means a *tree* that: (a) is taller than 8 metres; and (b) has a trunk that is 400mm or wider measured 1.2 metres above ground level; or (c) has multiple trunks with a combined diameter that is 400mm or wider measured 1.2 metres above ground level; or is listed on Council's Significant Tree Register.

minor building works	means: (a) *building work* valued at less than $5,000.00 but excludes demolition, underpinning, re-blocking and removal of *building*s and structures (regardless of value); (b) *landscaping works valued at less than $2,000; or* (c) *the construction (or reconstruction) of any driveway or masonry structure less than $2,000.*
municipality	means the municipality of the *Council*
Notice to Comply	means a notice given under clause 17.10 of this Local Law.
nuisance	means a person or thing causing inconvenience or annoyance. Part 10 is also to include as a *nuisance*: (a) any *building works* that emit dust, odour, waste, noxious gases or other *wind blown refuse* beyond the construction site; (b) the leaving of open and unguarded pits, excavations or basements on a *building site* which may constitute a risk to public safety or property; (c) any temporary structure, material, condition or practice constituting a fire hazard or impairing the extinguishing of any fire.
occupier	of *premises* means a *person* having the charge, management or control of the *premises*
owner	In respect of an animal, includes a *person* who *keeps* or harbours the *animal* or has the *animal* in his or her care for the time being whether the *animal* is at large or in confinement. In respect to a *premises* means the following: (a) where the *premises* are Crown land, the *owner* of the *premises* is the lessee or licensee of the land from the Crown, (b) where the *premises* are other than Crown land, the *owner* of the *premises* is: (i) every *person* who is jointly or severally entitled to the freehold estate of the land, and (ii) every *person* who is, or would be, entitled to receive, or is in receipt of, the rents and profits of the land, whether as beneficial *owner*, trustee, mortgagee in possession or otherwise.
penalty unit	has the same meaning as it has in the Sentencing Act 1991.
permit	means a *permit* granted under Part 16 of this Local Law.

person	includes an individual, a corporation, an association incorporated under the *Associations Incorporation Act 1981*, a partnership and an unincorporated association.
person in respect of minor building work	Refers to the: (a) *owner* of any land on which *minor building work* is being or is to be carried out; (b) builder engaged to carry out *minor building work* on land; (c) *appointed agent*; (d) driver of any *vehicle* involved in placing or removing a refuse facility on land; or (e) driver of any *vehicle* involved in delivering or receiving goods or equipment from land where *minor building work* is being or is to be carried out.
place	when used as a verb includes allow to remain.
planning permit	includes any plans, drawings or other documents approved under a Planning Scheme which gives permission for use or development of a particular piece of land
Planning Scheme	means an applicable *Planning Scheme* under the *Planning and Environment Act 1987*.
premises	includes the whole or part of any land, a lot on a *Plan* of subdivision and a *building* or *building* under construction.
prescribe	and "*prescribed*" includes decided or specified by the *Council*.
proprietor	means the *owner, occupier*, lessee, licensee, manager or any other *person* in control or charge of any place or *premises*.
public body	means any government department or municipal *Council* or body established for a public purpose by legislation.
public drain	means the portion of the *stormwater drainage system* that is a *Council asset* and includes any other drain listed in *Council*'s asset register.
public place	has the same meaning as in the *Summary Offences Act 1966* and also includes: (a) any place *prescribed* by the *Council* as a *public place*, other than an interior part of a *building* which is not occupied by the *Council* or a *public body* unless that part has been *prescribed* by the *Council*; (b) any vacant land or vacant space adjoining any *road*; and (c) a *Council building*.

recreational reserve	means any land that is owned, occupied or controlled by the *Council* and is dedicated or used for cultural, sport, recreational or entertainment purposes and includes *Council's* parks and gardens.
recycling bin	means a bin issued by Council to premises for the purpose of waste collection of recycling materials specified by Council
refuse facility	means a site for the temporary deposit of *trade waste*
road	has the same meaning as in the *Act*.
roadside	has the same meaning as in the *Road Management Act 2004*.
security bond	means a payment or guarantee made to *Council* for the purposes of defraying costs to repair damage to assets or as required under the Local Law;
segway	means a two-wheeled, self-balancing electric form of transportation.
sell	includes: (a) barter, offer or attempt to *sell*, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale, or allow to be sold or offered for sale; and (b) sell for re-sale. (d)
Shisha pipe	Shisha pipes, hookahs, argilah and the like are single or multi-stemmed water pipes used for vaporizing and smoking flavoured tobacco, herbs or fruit mixes, whose vapour or smoke is passed through a water basin—often glass-based—before inhalation.
smoke	means to: (a) *smoke*, hold or otherwise have control over an ignited *tobacco product*; or (b) light a *tobacco product*.
smoke free area	means an area: (a) identified in Part A of Schedule 2 to this Local Law; or (b) *prescribed* to be a *smoke free area* in accordance with clause 4.3.
special event	means an organised sporting, recreational, cultural, commercial or social gathering of people which is held on a *road* or any other *public place prescribed* by the *Council*.
spruik	includes haranguing or addressing members of the public (whether directly or by the use of pre-recorded speech or messages) to solicit business, encourage members of the public to enter *premises*, purchase goods or both.

stormwater drainage system	means a drainage system which provides for the conveyance of stormwater run-off including spouting, downpipes, gutters, kerb and channel, pit lids, pits, open channels, culverts, underground drains, pipes and natural waterways such as creeks and their associated vegetation corridors/riparian zones.
street art	means artwork in the form of a mural but excludes graffiti such as tagging or stand-alone stencils.
tobacco product	has the same meaning as in the *Tobacco Act 1987*.
toy vehicle	means equipment designed to be propelled on land by human power and includes a skateboard, scooter, roller skates and in-line skates but does not include a *bicycle*.
trade waste	means any waste generated from a commercial or industrial premises and includes general, liquid and recycling waste.
traffic control item	means any sign, mark, structure or device displayed or erected for the purpose of controlling, directing, guiding, regulating or warning drivers or pedestrians.
trailer	has the same meaning as in the *Road* Safety Act 1986;
tree	includes the trunk, branches, canopy and root system of the *tree*.
Tree Protection Zone	means the area surrounding a *Significant Tree*'s trunk, being a circular area below the tree extending at equal distances from the tree base in all directions, the radius of which is 12 times the trunk diameter measured at 1.5 metres above ground level, to a maximum of 15 metres.
vehicle	means a conveyance which is designed to be or is propelled or drawn by any means, and includes a trailer and caravan, but does not include a train, tram, wheelbarrow, supermarket or shopping trolley, *bicycle*, *toy vehicle* or mobility device.
visitor	means a person visiting the place of residence of a *Vehicle Parking Permit* holder.
Vehicle Parking Permit	means a permit issued by Council in accordance with a parking scheme established by Council.
Visitor Vehicle Parking Permit	means a *Vehicle Parking Permit* issued for use in respect of a vehicle used by a person visiting the place of residence of a *Vehicle Parking Permit* holder.
waste	means hard waste, green waste, general waste and recyclable material

waste container	means a garbage bin, recycling bin and/or green waste bin, cart or other receptacle of a kind approved by the *Council* for the purpose of *waste* collection within the *municipality* or part of the *municipality*.
wind blown refuse	means refuse from a *building site* which is, if left outdoors, capable of or susceptible to being blown away without any human intervention by winds of a strength ordinarily encountered within the municipality in the course of a year.

1.11 Where a word or phrase has a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning.

Part 2
Behaviour

Introduction: This Part contains provisions which aim to protect the amenity of *public places* for all citizens by controlling behaviour in *public places* and by prohibiting *persons* from causing damage to *public places* or acting in a socially unacceptable manner.

Prohibited activities in *public places*

2.1 A *person* must not in, or within the hearing or sight of a *public place*:

(a) adversely affect the amenity of that *public place*;

(b) interfere with the use or enjoyment of that *public place* or the personal comfort of another *person* in or on that *public place;*

(c) annoy, pester, assault, abuse or obstruct the mobility access of any other person in or on that *public place;*

(d) defecate or urinate except in a toilet or urinal in a public convenience; or

(e) commit an indecent or offensive act; or

(f) use any threatening, abusive or insulting words or behaviour.

2.2 A *person* must not in or on a *public place*:

(a) destroy, damage, alter, mark, deface or remove any property or thing belonging to or managed or used by *Council*;

(b) walk on or over any public plant bed, plant box or garden plot;

(c) walk on or over a turf cricket pitch unless for the purpose of playing cricket;

(d) cause risk of personal injury or damage to property by climbing or walking on or over, sitting on or sliding down any structure, *building*, fixture, free standing object, appliance or equipment (other than play equipment or recreation and fitness equipment installed by the *Council*) except with the consent of the *proprietor*;

(e) after having been directed to leave by an *Authorised Officer*, enter or remain in any area, place, *building* or structure; or

(f) enter any area, place, *building* or structure in respect of which the *Council* has *prescribed* an entry fee, unless the entry fee has been paid to *an Authorised Officer* or authorised representative of the *Council* or the *person* enters in accordance with the written consent of the *Council* or the *proprietor*.

Toy vehicles

2.3 A *person* must not use or allow to be used a *toy vehicle* so as to endanger, intimidate or unduly obstruct or hinder any other *person* or *vehicle* lawfully using or intending to use the same area.

Protection of *trees*

2.4 Unless in accordance with a *permit*, a *person* must not in or on *Council land* or a *road* destroy, damage, remove or otherwise interfere with a *tree* or allow any *person* to destroy, damage, remove or otherwise interfere with a *tree*.

Protection of *mature trees*

2.5 A *person* must not, without a *permit*:

(a) remove, prune, damage, kill or destroy or direct, authorise or allow to be removed, pruned, damaged, killed or destroyed a *mature tree;*

(b) carry out, or direct, authorise or allow to be carried out, any works within the *Tree Protection Zone* of a *mature tree*; or

(c) remove, prune, damage, kill or destroy or direct, authorise or allow to be removed, pruned, damaged, killed or destroyed a *tree* required to be planted as a condition of a *permit*.

Clause 2.5 does not apply to

(a) a *person* whose actions are required by any other legislation or by any other statutory authority; or

(b) a *person* acting in accordance with a planning permit or an instruction or direction from an *Authorised Officer*.

Camping in *public places*

2.6 Unless in accordance with a permit, a person must not camp in or on any public place.

2.7 A person must not leave any item associated with camping in a public place.

2.8 A person cannot be issued an infringement for an offence where that person is homeless, in need of secure accommodation, has complex needs or is in need of additional assistance because of a mental or physical disability or illness.

Commercial fitness activities

2.9 A commercial fitness trainer must not conduct *commercial fitness activities* in an *exclusion zone*.

2.10 A commercial fitness trainer conducting *commercial fitness activities*, and persons participating in *commercial fitness activities* in a *recreational reserve* must not engage in aggressive or intimidating behaviour, or cause a *nuisance*.

Fencing vacant land

2.11 An *owner* or *occupier* of vacant land which is wholly or partially unfenced must, after being directed to do so by the *Council* or an *Authorised Officer*, fence or cause to be fenced all or that portion of the vacant land which was the subject of the *Council's* or the *Authorised Officer's* direction.

Fences at intersections

2.12 The *owner* or *occupier* of any land situated at an intersection must not erect any temporary fence on the land so as to obstruct the clear view:

(a) by a driver, of any:

i. *pedestrian;*

ii. *vehicle*; or

iii. *traffic control item; or*

(b) by a pedestrian, of any:

i. *vehicle*; or

ii. *traffic control item.*

Part 3
Consumption of *Liquor*

Introduction: This Part aims to provide for the responsible management of *public places* so as to enhance the enjoyment of them by the general public, especially during major events. The provisions control the consumption of *liquor* in *public places* and other places within certain areas of the *municipality* and during certain periods of the year.

Consumption and possession of *liquor* is prohibited in certain circumstances

3.1 A person must not in or at a prescribed place consume or have in their possession any liquor other than liquor in a sealed container.

Clause 3.1 does not apply to a *person* or *proprietor*:

(a) taking part in a festival or event in respect of which the *Council* has granted a *permit* for *persons* to consume *liquor* or to have in their possession or control any *liquor* other than *liquor* in a sealed container;

(b) who has been granted a permit to sell liquor in accordance with the Footpath Trading Guidelines.

3.2 Where an *Authorised Officer* believes on reasonable grounds that a *person* or *proprietor* is contravening or has contravened clause 3.1, the *Authorised Officer* may direct the *person* to seal any container or dispose of the contents of any unsealed container.

Part 4
No Smoking in *Smoke free areas*

Introduction: This Part aims to provide for the responsible management of *public places* so as to enhance the enjoyment of them by the general public. The following clauses prohibit smoking *tobacco products* in *smoke free areas* within the *municipality*.

Prohibition on smoking

4.1 A *person* must not *smoke* a *tobacco product* in a *smoke free area*.

4.2 A person must not, without a permit, smoke a shisha pipe or associated apparatus on Council land.

4.3 Where an *Authorised Officer* believes on reasonable grounds that a *person* is contravening or has contravened clause 4.1, the *Authorised Officer* may direct the *person* to extinguish and then dispose of the *tobacco product*.

Council may *prescribe smoke free areas*

4.4 *Council* may *prescribe* any area within the *municipality* to be a *smoke free area*.

4.5 The *Council* or an *Authorised Officer* may erect, or cause to be erected, an acceptable no smoking sign in a *smoke free area*.

Part 5
Animals

Introduction: This Part aims to provide for the responsible care and management of *animals* within the *municipality* including regulating the number and types of *animals* a *person* may *keep* without a *permit*.

This Part does not apply to any land:

(a) on which a pet shop is located;

(b) on which an *animal* hospital or veterinary practice is located; or

(c) if the use of the land for this purpose is permitted under the *Planning Scheme*.

Keeping of *animals*

5.1 Unless permitted under the *Planning Scheme* applicable to the premises, a person must not, without a permit, keep or allow to be kept on any land any more of each species of *animal* than is specified in the following table.

5.2 Unless permitted under the *Planning Scheme* applicable to the premises, a person must not on any premises, without a permit, keep an *animal* not listed in the table.

Clause 5.1 and 5.2 do not apply to a person who has a permit under the Wildlife Act to keep native animal.

Permitted *animals* and birds

Type of *animal*	Maximum allowed in a premises (other than a flat, unit, apartment or townhouse)	Maximum allowed in a flat, unit, apartment or townhouse
Dogs (over 3 months old)	2	1
Cats (over 3 months old)	2	1
Chickens (hens)	4	0
Domestic birds – caged non-poultry	15	5
Pigeons (non-racing)	5	0
Pigeons (racing)	20	0
Ferrets	2	1
Guinea pigs, rabbits, rats or mice	4 of one species or 6 in total	2 of one species or 4 in total

5.3 Any structure used for housing an *animal* must be maintained:

(a) in a clean and sanitary condition;

(b) so as not to cause any *nuisance*;

(c) free from refuse, rubbish and other material which harbours, attracts or may harbour or attract vermin; and

(d) to the satisfaction of the *Council*.

5.4 Any structure used for housing an *animal* must not form part of, be connected or attached to a property line fence.

5.5 An *occupier* of premises must ensure that all food for consumption by an *animal* or bird is kept or stored in a vermin and fly-proof receptacle.

5.6 An *occupier* of premises must ensure that all excrement, refuse or rubbish associated with the keeping of an *animal* is collected and disposed of in a hygienic and lawful manner so that it does not detrimentally affect the amenity of the area.

Animals in a *public place*

5.7 A *person* must not feed or leave food for a feral or wild bird or *animal* in a *public place*.

5.8 A person must not tie an unsupervised *animal* to a bench, seat, table, pole, peg or any other structure in a public place for more than 15 minutes at a time.

5.9 Whenever an *animal* is in or on a *public place*, the owner of the *animal* must have in his or her possession means for the effective collection and removal of any excrement that may be deposited by the *animal*.

5.10 The owner of an *animal* must immediately collect and dispose of all excrement deposited by the *animal* in a *public place* in a hygienic and lawful manner.

5.11 The owner of an *animal* must not allow any excrement to remain on any road, footway, Council land or other public place.

5.12 A person exercising dogs must not have more than 4 dogs walked by a person at any one time.

Commercial dog walkers

5.13 A person must not without a permit conduct a commercial enterprise of exercising dogs or any other *animal* in a *public place*.

Part 6
Advertising and Use of Shopfronts and *Public places*

Introduction: This Part contains provisions which aim to enhance the appearance of streets and *public places* by controlling the placement of *advertising signs* in *public places* and on and between *buildings* and *street art* in, or within view from, a *public place* within the *municipality* and the placement of goods and the like in *public places*.

Authorisation required for *advertising sign* or other thing on or between Council *buildings*

6.1 Unless:

(a) in accordance with a *permit*; or

(b) to do so is specifically authorised by and in accordance with legislation or the *Planning Scheme* or a Planning permit issued under it; or

(c) no part of the *advertising sign* or other thing is in, on or over a *public place,*

a person must not hang, *place* or affix any *advertising sign* or other thing on or between any part of a Council *building,* plant, pole, post or other structure or allow that to occur.

Authorisation required for *street art* in or on a *public place*

6.2 A *person* must not, without a *permit*, apply *street art* or allow *street art* on any part of a *public place*.

Note: Nothing in this clause is intended to affect the operation of the *Graffiti Prevention Act 2007*.

Authorisation required for portable *advertising signs* or other things in *public places*

6.3 Unless:

(a) in accordance with a *permit*; or

(b) to do so is specifically authorised by and in accordance with the *Planning Scheme* or a Planning permit issued under it,

(c) a person must not *place* or erect a portable *advertising sign* or other thing in, on or over a *public place* or allow that to occur.

Authorisation required for goods in a *public place*

6.4 A *person* must not without a permit, hang, pile or place any goods or allow that to occur on any shopfront, footpath, outside wall, roof or veranda.

6.5 Clause 6.4 does not apply if the placement of an item:

(a) does not protrude over or into a *public place* or cause an obstruction or risk of injury to a *person* or damage to property; or

(b) is specifically authorised by and in accordance with the *Planning Scheme* or a Planning permit issued under it.

6.6 A person must not, without a *permit* and the consent of the *proprietor*, place, fix, allow to be placed or allow to be fixed in or on a *public place*, footpath or road any planter or similar structure or thing.

Part 7
Street Trading and *Special events*

Introduction: This Part contains provisions which aim to manage and facilitate responsible trading and entertainment on *streets* and *public places* to increase the attractiveness and comfort of these places, by controlling the soliciting of gifts and money, *selling* and other behaviour on *public places*.

Soliciting trade and similar activities

7.1 Unless in accordance with a *permit*, a *person* must not in a *public place* or from *premises* adjacent to a *public place*, solicit or try to attract trade or business or *tout* or *spruik* or allow any *person* to solicit or try to attract trade or business or *tout* or *spruik*.

Permit required for selling in a *public place*

7.2 Unless in accordance with a *permit*, a *person* must not *sell* any good or service on or in a *public place* or from *premises* adjacent to a *public place* to a *person* in a *public place*.

Permit required for filming and special events

7.3 Unless in accordance with a permit or Council approved guidelines, a person must not in or on a *road* or any other *public place prescribed* by the *Council*:

(a) conduct any *special event*, or

(b) conduct any filming where the film is for a commercial purposes.

Clause 7.3 (b) does not apply to filming for news or media reporting.

Note: The *Council* will take into account the *Filming Approval Act* 2014 in considering an application for a *permit* under clause 7.3(b).

Furniture in a *public place*

7.4 (a) A person must not, without a permit, place or cause to be placed any item of furniture in or on a public place.

(b) A person cannot be prosecuted under 7.4 (a) if the person is homeless or in need of secure accommodation.

Clauses 7.1, 7.2 and 7.4 apply only to those *persons* who have an Australian Business Number, unless on one of the following registers:

(a) Victorian Electoral Commission

(b) Australian Electoral Commission

(c) Consumer Affairs (Co-operatives Public Register, Fundraisers Public Register or Incorporated Associations Public Register)

(d) Australian Charities and Not for Profit Commission (registered as a not for profit or charity group); or

(e) Victorian Registration and Qualifications Authority.

Part 8
Environment

Introduction: This Part sets requirements for activities that may affect the environment of the neighbourhood in which the activities are conducted and includes *waste* management and disposal; burning of material in the open and open fires; and the generation of offensive odours and fumes.

Prevention of mosquito breeding

8.1 The owner or occupier must not allow a premises to harbour still or stagnant water in such a manner as to be likely to provide a breeding environment for mosquitoes.

Waste

8.2 A person must not:

(a) *place* a *garbage bin, recycling bin* and/or *green waste bin* in or on a *public place*, or outside the *premises* any more than 24 hours before the scheduled collection time;

(b) *keep* or allow a *garbage bin, recycling bin* and/or *green waste bin* to remain in or on a *public place*, or outside the *premises* for more than 24 hours after collection time;

(c) leave or allow to be left a *garbage bin, recycling bin* and/or *green waste bin* in or on a *public place* unless it is:

(i) marked with the address of the *premises* in respect of which it was issued;

(ii) clean on all external surfaces including being free from visible food matter and other debris; and

(iii) airtight, securely closed and sealed;

(d) move, or cause, allow or suffer to be moved a *garbage bin, recycling bin* and/or *green waste bin* from the premises to which it was issued, or to a premises other than the premises to which it was issued;

(e) use a *garbage bin, recycling bin* and/or *green waste bin* for any purpose other than the purpose for which it was issued.

(f) use a receptacle other than the issued waste container for any deposit of waste.

(g) place or cause to be placed in a waste container any of the following:

i. animal carcasses;

ii. hot ashes;

iii. slops or liquid waste;

iv. syringes or other sharp objects that may be contaminated with infectious waste including blood;

v. trade or building waste;

vi. prescribed waste as defined in the *Environment Protection (Prescribed Waste) Regulations;*

vii. waste exceeding a total of thirty (30) kilograms;

viii. human excrement (other than in the case of disposable nappies that have been cleaned of solids and wrapped in impervious material);

(h) place or cause to be placed in a waste container any of the following, unless securely wrapped in impervious material:

i. dirt, dust, hair or other like substance;

ii. glass, wire, or other jagged or rough edge material or object;

iii. animal faeces;

iv. deposit waste produced in a domestic or commercial setting into Council public place litter and recycling bins.

8.3 A person must separate and place waste in the appropriate waste container as issued by the *Council*.

8.4 A person must place infectious waste in a container specifically designed to receive such waste and must dispose of such container in accordance with the Environment Protection (Prescribed Waste) Regulations.

Clause 8.4 does not apply to a *person* who is authorised or licensed to transport, or dispose of such *prescribed* waste by the Environment Protection Authority under the *Environment Protection Act* and the *Environment Protection (Prescribed Waste) Regulations*.

8.5 A person must place a waste container:

(a) with the lid fully closed;

(b) at least 1 metre clear of any obstruction or parked *vehicle*; and

(c) facing the *road*, near the kerb at the front of the *premises*; and

(d) if applicable:

i. if the *road* is a one-way *road*, on the left hand side of the *road* (when facing the direction of travel); or

ii. if the *road* is a cul-de-sac, at the entrance to the bowl or hammerhead of the cul-de-sac; or

iii. as otherwise *prescribed* by *Council*.

8.6 A person must not remove or interfere with any household rubbish, recyclable waste or green waste that has been placed out for collection.

Clause 8.6 does not apply to any person employed or engaged by Council or the occupier of premises.

Hard waste

8.7 A person must not place or allow to be placed hard waste in such a manner that will obstruct or hinder the use of any road.

8.8 A person must not place or allow to be placed hard waste on days and times other than those *prescribed* by the *Council*.

8.9 A person must not place or allow to be placed as part of hard waste, any disused refrigerator, ice-chest, icebox, trunk, chest or other similar articles without first removing every door, lid, lock and/or hinge.

Commercial and industrial waste

8.10 The owner or occupier of a commercial or industrial premises that stores *trade waste* and liquid waste must:

(a) provide *trade waste* storage containers that are:

(i) constructed of impervious materials; and

(ii) water tight; and

(iii) pest proof; and

(iv) be sufficient in volume and number to contain all the *trade waste* produced.

(b) empty all *trade waste* containers before they overflow;

(c) maintain and keep all *trade waste* storage containers in a clean condition.

8.11 The owner or occupier of a commercial or industrial premises that stores liquid *trade waste* must:

(a) secure the waste storage containers:

i. within an appropriately constructed and maintained enclosure; and

ii. within an area designed and constructed to prevent the escape of the liquid *trade waste*; and

iii. in a manner that prevents liquid *trade waste* from contaminating or entering the *stormwater drainage system*; and

iv. in a manner that enables the recovery of spilt material.

(b) supply equipment sufficient to enable the clean-up of any spilt liquid *trade waste*;

(c) empty all liquid *trade waste containers* before they overflow;

(d) maintain all liquid *trade waste containers* to the satisfaction of an *Authorised Officer*.

Storage and washing of *waste containers* (commercial and industrial premises)

8.12 The *owner* or *occupier* of a *commercial or industrial premises* must:

(a) store and wash *waste* receptacles; and

(b) not allow *waste and wastewater* to escape from the *premises* or contaminate or enter the *stormwater drainage system*; and

(c) store waste completely within the *premises*; and

(d) provide sufficient wash facilities on the *premises* to enable *waste* receptacles to be thoroughly cleaned; and

(e) maintain wash facilities to the satisfaction of the Authorised Officer.

Collection of *trade waste*

8.13 A *person* must not, without a *permit*, collect or allow to be collected, from any *commercial or industrial premises* any *waste* except between the hours of:

6.30 am and 8.00 pm Monday to Saturday; or

9.00 am and 8.00 pm Sundays and Public Holidays.

8.14 A person must not emit or allow to be emitted unreasonable noise from the collection of *trade waste* from commercial or industrial premises.

Incinerators, fires and open air burning

8.15 A person must not light or allow any fire to be lit in the open air or in an incinerator on any land other than in a device designed and constructed for the purpose of cooking food for consumption.

8.16 A person must not allow any heating device including a fire pit, chiminea or chimney on the premises to discharge any dust, grit, ash, smoke, effluvium, substance or odour that constitutes a nuisance or is unreasonable.

8.17 A person must only use gas or dry wood to fuel fires. No chemically treated, painted or unseasoned wood or other material is to be used.

8.18 Council may, in special circumstances, issue a permit for a fire in the open air. Special circumstances include:

(a) when a fire is to be used for public entertainment; or

(b) where an *Authorised Officer* forms the opinion that any of the following apply:

(i) the nature, volume or location of the material to be burnt is such that its disposal by any other means is unsafe;

(ii) there is no reasonable alternative method available for the disposal of the material proposed to be burnt;

(iii) it is necessary to burn the material in the interests of public safety.

Part 9
Protection of *Council land* and Assets

This Part is to protect *Council land, Council assets, roads* and the environment in relation to building work activity by requiring permits for various activities.

Vehicle crossing works

9.1 An *Authorised Officer* may direct a *person* to:

(a) construct a temporary or permanent *vehicle crossing*;

(b) repair or reconstruct a *vehicle crossing*; or

(c) remove a *vehicle crossing*, and reinstate any kerb, channel, footpath or other areas to the satisfaction of *Council* or the *Authorised Officer*.

9.2 A person must comply with a direction of *Council* or the *Authorised Officer*.

Permit required for vehicle crossing

9.3 A *person* must not, without a *permit*, construct, install, remove or alter a *vehicle crossing*.

Requirements concerning vehicle crossings

9.4 An *owner* or *occupier* of *premises* must:

(a) maintain all existing *vehicle crossings* in a safe state; and

(b) where a vehicle crossing has been constructed as a bridge or driveway over the channel in the road, keep the channel clear of obstructions; and

(c) remove any redundant vehicle crossings.

Asset Protection

9.5 A *person* must not, without an *Asset Protection permit* carry out *building* work or allow *building* work to be carried out on the land, unless the works constitute *minor building works*.

9.6 An application for an Asset Protection Permit must:

(i) be accompanied by such fee as is fixed by Council;

(ii) include a statement from the person in charge of the land and of any, and the extent of any pre-existing damage and latent defects of adjoining Council land, Council assets or road; and

(iii) be lodged with Council prior to commencement of doing the thing for which the Asset Protection Permit is necessary.

9.7 If an application for an Asset Protection Permit does not include a statement in accordance with clause 9.6 it is presumed that there was no pre-existing damage or latent defects in such Council land, Council assets or road prior to the commencement of building work.

9.8 An Asset Protection Permit may direct how a person may access the land during the building work.

9.9 An Asset Protection Permit may be issued subject to such conditions as Council determines, including conditions requiring protection works to be done;

9.10 A *person* must not, without a permit, deposit or place materials on any part of a *road* or *Council land*.

9.11 A *person* must repair any damaged *road*, *Council* land or *Council asset* adjoining or adjacent to the land where the *building* work has taken place, takes place or which is likely to be affected by the *building* work, to Council's standards, within 7 days of being requested to do so by an *Authorised Officer*.

Additional inspections required after a request for final inspection

9.12 Where a person, or an agent acting on behalf of a person who has an *Asset Protection Permit* for a building site, advises that works are complete for the purpose of an *Asset Protection Permit* or an application for statement of compliance for a subdivision, that person must:

(i) Request a final inspection by an Authorised Officer in the manner prescribed by the Council, and

(ii) make full payment of any fee prescribed by the Council for any additional inspection(s) after the first final inspection required due to incomplete works. This payment must be made prior to that inspection being scheduled.

Permit required for road occupation

9.13 Unless in accordance with a permit, a person must not:

(a) erect a hoarding or overhead protective awning on a road;

(b) occupy or fence off part of a road;

(c) use any plant or equipment including a crane, elevated work platform, ladder, concrete pump, mobile scaffolding or a scissor lift on a road;

(d) use any plant or equipment associated with excavation or demolition, including an excavator, backhoe or bulldozer, on a road except where consent for those works have been obtained under the *Road Management Act 2004* from the Coordinating Road Authority;

(e) install, alter or remove any object including a fence, gate, retaining wall, sign, tactile indicator or planter box on in or over a road;

Prior to the commencement of any activity in Clause 9.13 a person must:

(f) make full payment of the fee prescribed by the Council for processing the application for a permit; and

(g) make full payment of any fee prescribed by the Council for inspection(s) of the site or works required by an Authorised Officer; and

(h) give two business days notice of the actual commencement date and time for the activity listed in Clause 9.13 for the purpose of an inspection by an Authorised Officer, in the manner prescribed by the Council.

Works on Council land

9.14 A *person* required to undertake any works on *Council land* must:

(a) obtain a permit for the work;

(b) undertake those works safely;

(c) where relevant, provide and maintain pedestrian and traffic control devices during the course of the works; and

(d) where relevant, ensure that any pedestrian or traffic control device which is being used complies with Australian Standard AS 1742.3.

Damaging Council asset or Council land

9.15 A *person* must not, without a *permit*:

(a) destroy, damage or interfere with any *Council asset* or *Council land* or anything on a *Council asset* or *Council land*;

(b) *place* any thing on any *Council asset* or *Council land* so as to endanger any other *person* or any property; or

(c) remove any thing from any *Council asset* or *Council land*.

Clause 9.15 does not apply to a *person* employed or engaged by *Council* while acting in the course of his or her duties.

9.16 A person who breaches clause 9.15(a) must be liable to repair, replace or reconstruct the road if instructed to do so by an Authorised Officer.

Trees or plants causing damage to public places

9.17 An *owner* or *occupier* must not allow *trees* or *plants* on *premises* to cause damage to, or interfere with *public places*.

Works in the road reserve that require inspection

9.18 Where a person intends undertaking "works" as defined in the *Road Management Act 2004*, and that person is required to obtain written consent from the "coordinating road authority" by the *Road Management Act 2004*, that person must:

(i) give two business days notice of the actual commencement date and time for the purpose of an inspection by an Authorised Officer, in the manner prescribed by the Council, and

(ii) make full payment prior to the commencement of the works of any fee prescribed by the Council for commencement and post-commencement inspection(s) of the site or works required by an Authorised Officer.

9.19 Where a person has undertaken "works" as defined in the Road Management Act 2004, and that person was exempt from applying for written consent from the "coordinating road authority" in accordance with the Road Management (Works and Infrastructure) Regulations 2015, but is required to give notice to the relevant Coordinating Authority as to the completion of the works, that person must make full payment of the fee prescribed by the Council for inspection(s) of the completed works undertaken to ensure the reinstatement was carried out in accordance with the legislation.

Alteration of public road level

9.20 Where a person applies to Alter the Level of the Public Road Reserve, that application must include payment of the fee set by Council.

Part 10
Building works

Introduction: This Part contains provisions which aim to improve the amenity of the municipality, in particular residential areas, by preventing nuisances caused by building works.

Notice to be given before commencing building works

10.1 A *person* must not commence to carry out *building works* (other than *minor building works*) unless he or she gives at least 48 hours written notice to the *Council* of his or her intention to do so.

10.2 A notice under clause 10.1 must be in the form *prescribed* by the *Council* and if requested, include a *Construction Management Plan* which must be approved by the *Council* prior to commencement of *building works*.

10.3 An approved *Construction Management Plan* can only be modified with the consent of the Council.

10.4 A *person* involved in the carrying out of *building works* must comply with a *Construction Management Plan* approved under clause 10.2 or modified under clause 10.3.

Building works on a single dwelling are confined to certain times and places

10.5 A *person* may carry out or allow to be carried out *building works* on a single dwelling

(a) if the works are carried out within the times stipulated within the Environment Protection Authority guidelines:

(b) the *person* is the *owner* or *occupier* carrying out the *building works* himself or herself and no other *person* is engaged for fee or reward; and

(c) the *person* is complying or observing any direction, notice or order of the *Council*, *Authorised Officer* or any public authority.

All other *building works* are confined to certain times and places

10.6 Except in the case of an emergency or in accordance with a *permit*, a *person* must not carry out *building works* or cause *building works* to be carried out unless the works are carried out in accordance with the hours stipulated within the Environment Protection Authority guidelines.

Heavy vehicle movements are confined to certain times and places

10.7 Except in the case of an emergency or in accordance with a *permit*, a *person* must not allow any heavy vehicle movements to or from the commercial or industrial premises except between the hours of:

(a) 7.00 am and 6.00 pm Monday to Friday (except Public Holidays); or

(b) 7.00 am and 1.00 pm Saturday.

10.8 Except in the case of an emergency or in accordance with a *permit*, a *person* must not allow any heavy vehicle associated with the building work to be left standing on, or in the vicinity of, the premises with its engine operating for a period longer than 30 minutes.

Wheels of *vehicles* to be kept clean

10.9 A *person* must not drive a *vehicle* on to any *road* from *premises* upon which any filling, excavation, landscaping, *building works* or demolition operation is being or has recently been carried out unless the wheels and undercarriage of the *vehicle* are clean.

Nuisances

10.10 A person must not carry out building works or cause building works to be carried out so as to create a nuisance.

Drains and stormwater discharge

10.11 A person must not, without a Drainage Connection permit, alter, modify, tap into, damage or destroy any public drain.

10.12 A person must not allow any stormwater drainage system which carries stormwater runoff mainly from roofs or pavements within his or her land, or located on land which he or she owns or occupies to fall into disrepair or a condition which is dangerous to health or constitutes a nuisance.

10.13 A person must not allow any stormwater drainage system located outside the land which he or she owns or occupies which carries stormwater runoff mainly from roofs or pavements within his or her land to fall into disrepair or a condition which is dangerous to health or constitutes a nuisance.

10.14 A person must not allow a stormwater drainage system into which he or she has been permitted to tap into or to which he or she has been permitted to connect, to fall into disrepair or a condition which is dangerous to health or constitutes a nuisance.

10.15 A person must seek to eliminate the risks of stormwater pollution, through the contamination of run-off by chemicals, sediments, animal waste or gross pollutants by adopting measures to:

(a) minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting *roads* or washed into the *stormwater drainage system*; and

(b) prevent *building* clean-up, wash-down or other *waste*, refuse or pollutants being discharged off site or allowed to enter the *stormwater drainage system*.

Refuse and waste

10.16 A person must on any building site:

(a) provide a *refuse facility* for the purpose of disposal of builder's refuse to the satisfaction of an *Authorised Officer*;

(b) *place* the *refuse facility* on the land and keep it in place (except for such periods as are necessary to empty the refuse facility) for the *construction period*;

(c) empty the *refuse facility* whenever full, and, if necessary, provide a replacement refuse facility during the emptying process;

(d) remove and lawfully dispose of all builder's refuse, including the builder's refuse in the *refuse facility*, within seven days of completion of the *construction period* or issue of an occupancy *permit* whichever occurs last; and

(e) *place* all builder's refuse in the *refuse facility*;

10.17 A person must not, without a permit place the refuse facility on any Council land or road.

Storage and delivery of materials

10.18 A person must securely store or place materials associated with building works on the land.

10.19 A person must not, without a permit store or place materials associated with building works on Council land.

10.20 A person must not, without a permit store or place materials associated with building works on a road.

10.21 A person must not, without an Asset Protection permit, carry out or allow to be carried out equipment or material deliveries to land on which building work is being carried out.

Amenities

10.22 A person must not carry out or allow to be carried out any building work on a building site unless a sewered toilet and wash basin, or a fresh water flush portable toilet is provided and is serviced as required (or at least monthly) for the use of persons on that building site to the satisfaction of an Authorised Officer.

Fencing

10.23 A person must not carry out or allow to be carried out any building work unless the site is secure with permanent or temporary fencing which is at least 1.8 metres high and is to the satisfaction of an Authorised Officer.

Clause 10.23 does not apply where legislation, regulation or a planning permit requires the installation of permanent fencing.

Contact details

10.24 A person must not carry out or allow to be carried out any building work unless the contact details of the builder are displayed on the site in a position clearly visible by the public.

Minor building work

10.25 A person in respect of minor building work must not, without a permit, deposit materials or refuse on any part of a road or Council land.

10.26 A person in respect of minor building work must:

(a) provide a *refuse facility* for the purpose of disposal of refuse associated with the *minor building work*;

(b) empty the *refuse facility* whenever full; and

(c) remove and lawfully dispose of all refuse in the *refuse facility* within seven days of completion of the *building works*.

10.27 A person in respect of minor building work must minimise the risks of stormwater pollution, through the contamination of run-off by chemicals, sediments, animal waste or gross pollutants by adopting measures to:

(a) minimise the amount of mud, dirt, sand, soil, stones or other refuse or pollutants deposited on the abutting roads or washed into the *stormwater drainage system*; and

(b) prevent building clean-up, wash-down or other waste being discharged off site or allowed to enter the *stormwater drainage system*.

Directions by *Authorised Officer*

10.28 An Authorised Officer may inspect a building site at any time for the purpose of inspecting any building site.

10.29 An *Authorised Officer* may direct any person found carrying out or suspected of carrying out *building works* in contravention of this Local Law or without a *permit* to cease carrying out those *building works* immediately or as soon as practicable.

Part 11
Dilapidated, Dangerous and Unsightly Premises

Introduction: This Part contains provisions which aim to ensure that the appearance of *buildings* in the *municipality* are consistent with an image of the *municipality* that is safe, attractive and well maintained by controlling *premises* that have been allowed to reach a dilapidated, unsightly or dangerous condition.

Dilapidated premises

11.1 Where in the opinion of Council the *premises* are in a dilapidated state, including where:

(a) the exterior of any *building* is in a state of disrepair or has been damaged or defaced so as to affect the visual amenity of the property or the area in which it is located; or

(b) *encroachments* are in a state of disrepair which may be dangerous or likely to cause a danger to any *person,*

an *Authorised Officer* may serve a *Notice to Comply* in accordance with clause 17.10 of this Local Law specifying the work required to correct the dilapidated state.

Dangerous and unsightly premises

11.2 An *owner* or *occupier* of *premises* must ensure that all necessary steps are taken to prevent fires and minimise the possibility of the spread of fire by regularly minimising the build-up of grass, weeds, scrub, undergrowth and any other material or substance on or in the *premises* and ensuring that there is no storage of such material likely to assist in the spread of fire.

11.3 Where Council is of the opinion that the condition of any *premises* may contribute to the spread of fire, Council may serve a *Notice to Comply* in accordance with clause 17.10 of this Local Law specifying the work required to correct the condition of the *premises*.

11.4 An owner or *occupier* of *premises* must not cause or allow his or her *premises* –

(a) to be kept in a manner which in the opinion of Council is dangerous or likely to cause danger to health or property; or

(b) to contain, in the opinion of Council noxious weeds, insects, excessive vegetation growth or be a haven for vermin.

11.5 Where Council is of the opinion that the condition of any *premises* is as described in Clause 11.4 Council may serve a *Notice to Comply* in accordance with clause 17.10 of this Local Law specifying the work required to correct the condition of the *premises*.

11.6 An owner or *occupier* of *premises* must not cause or allow his or her *premises* to be kept in a condition which in the opinion of the *Council* is unsightly or is detrimental to the general amenity of the neighbourhood.

11.7 Where the *Council* is of the opinion that –

(a) the *premises* contains unconstrained rubbish; or

(b) the *premises* contains disused excavation, machinery, *vehicles* or *waste* material; or

(c) the *premises* contains excessive vegetation, including grass exceeding 150mm in height; or

(d) graffiti on the *premises* is visible to the public; or

(e) the appearance of the land is one of neglect and is out of character with other land in the vicinity; or

(f) a combination of any of the above factors renders the land to be considered dangerous or unsightly

the *Council* may serve a *Notice to Comply* in accordance with clause 17.10 of this Local Law specifying the work required to correct the condition of the *premises*.

Compliance with a Notice

11.8 A *Notice to Comply* is to be served on the *occupier* of the *premises* or, if one of the following circumstances exist, on the *owner* of the *premises*:

(a) the *occupier* of the *premises* cannot, after reasonable enquiry, be located; or

(b) the *occupier* no longer occupies the *premises*; or

(c) the *premises* are unoccupied.

11.9 In addition to any other means of enforcement provided by this Local Law, if the *person* served with a notice under clauses 11.1, 11.3, 11.5 and 11.7 fails to comply with the notice to the *Council's* satisfaction, the *Council* can take whatever action it considers is necessary to bring the *premises* into compliance with the notice.

11.10 Any costs incurred by the *Council* in taking action under clause 11.9 (including, without limitation, the cost of carrying out *building work*, the erection of hoardings and barricades and the removal of material from the *premises*), must be paid by the *person* served with the notice under clause 11.1, 11.3, 11.5 and 11.7 and until such costs are paid with any interest payable, the costs will remain a charge on the *premises*.

Part 12
Naming of *Roads* and Numbering of Premises

Introduction: This Part contains provisions to provide for the making of clear signage of *road* names and *street* numbers to assist in the management of the *municipality* and assist emergency services.

Requirement to number premises

12.1 The *owner of premises* must clearly mark his or her *premises* with the numbers allotted by the *Council* and must renew the numbers as often as may be necessary.

12.2 Where the *Council* is unable to find or identify the *owner of premises*, the *occupier* of those *premises* must comply with clause 12.1.

Council may number premises

12.3 The Council may where premises are not marked by the owner or occupier with the number allotted, cause the premises to be numbered and recover the cost of doing so from the owner or occupier (as the case may be) as a debt due to the Council.

Interfering with numbers and s*tree*t signs

12.4 A person must not:

(a) destroy, pull down, obliterate or deface the name of any *road*, or the name or number of any *premises*; or

(b) paint, affix or set up any name to any *road*, or any name or number to any *premises*, contrary to the provisions of this Local Law.

Part 13
Vehicles

Introduction: This Part contains provisions which aim to enhance the appearance of streets and *public places* by controlling activities involving *vehicles* in *public places* and minimise the impact of stationary vehicles on pre-planned routine public road maintenance.

Prohibition on *vehicles* remaining in *public places*

13.1. Unless in accordance with a permit, a person must not:

(a) bring a *vehicle* into or on or allow it to remain in or on a *public place*; or

(b) ride a *segway* or *bicycle* in or on a *public place*,

except:

(a) where that *public place* is a paved road surface or road related area; or

(b) in the case of a *bicycle*, where that *public place* is a pathway or where the *bicycle* creates a nuisance.

In clause 13.1(c), *road* and *road* related area have the meanings as defined in the *Road Safety Act 1986*.

Prohibition on *vehicles* in recreational reserves

13.2 A person must not drive or allow to be driven a vehicle onto a recreational reserve.

Clause 13.2 does not apply to a *Council* staff member whilst lawfully performing their duties.

Repairing *vehicles*

13.3 A *person* must not dismantle, paint, display for sale, carry out maintenance or repair a *vehicle* on a road, footway or Council land.

13.4 A *person* contracted or engaged to work on a vehicle must not leave, store or perform works on vehicles on a road, footway or Council land except as signed.

Clauses 13.3 and 13.4 do not apply if maintenance or work is carried out to enable a *vehicle*, which has broken down, to be removed from the *road, footway* or *Council land*.

Heavy *vehicles* and machinery

13.5 Unless permitted under the *Planning Scheme* applicable to the land, a *person* must not, without a *permit*, park, *keep*, store, repair, or allow to remain on any residential *premises* or vacant premises, heavy *vehicles* and/or machinery.

Attaching *vehicles* to a Council asset or public place

13.6 A *person* must not attach a *vehicle* to a *Council asset* or *public place*.

Use of *Vehicle Parking Permits*

13.7 A *person* must not sell, give away, lend or allow to be used a *Vehicle Parking Permit*; other than a *Visitor Vehicle Parking Permit* to be used by a legitimate *visitor*.

13.8 A person who resides in an area in which a residential parking permit scheme operates may make an application to the Council for a vehicle parking permit or visitor vehicle parking permit.

13.9 A person who has been allocated a vehicle parking permit must not sell, hire out, lease, licence or lend to another person or offer to sell, hire out, lease, licence or lend that vehicle parking permit to any other person.

13.10 A person must not purchase, hire, lease, licence or receive, or offer to purchase, hire, lease, licence or receive a vehicle parking permit from a person who has been allocated a vehicle parking permit.

13.11 The owner or occupier of land on which an advertisement is displayed for the sale, hire, offer for purchase or offer for hire of a vehicle permit is guilty of an offence.

13.12 A person must not:

a) forge or counterfeit a vehicle parking permit or visitor vehicle parking permit;

b) use a forged or counterfeit vehicle parking permit or visitor vehicle parking permit; or

c) contravene or fail to comply with the conditions of use of a vehicle parking permit or visitor vehicle parking permit.

Move Vehicles for Road Works

13.13 A vehicle may be relocated by the Council or their appointed agents from any road, Council asset or public place where these facilities require resurfacing or any other type of repair or maintenance. The relocation of vehicles will be undertaken where the vehicle obstructs such activity or, by its position, prevents the activity from taking place.

13.14 If the Council or their appointed agents are to remove vehicles under Clause 13.14, they must give notice at least 48 hours prior to the resealing, repair or maintenance indicating the Council's intention to undertake the activity.

Notice of the activity may be provided either through residential letter boxes or on vehicles parked in the street in which the activity is to take place or through notices in a local newspaper or any combination of these.

The notices will require that vehicles be removed from the road, Council asset or public place to allow the resurfacing, repair or maintenance activity to occur. After issuing a notice, the Council will not be obliged to make any further contact with the owners of the vehicles prior to their removal.

13.15 If the Council or their appointed agents are to remove a vehicle under clause 13.14 they must at least 12 hours before moving a vehicle, place signs displaying 'No Stopping' or otherwise traffic cones placed at no more than 6m intervals along the parking area that requires resurfacing or any other type of repair or maintenance

13.16 If the Council or their appointed agents are to remove a vehicle under clause 13.14, they must at the time of moving the vehicle:

(i) photograph existing condition of the vehicle

(ii) have with them an Authorised Officer to authorise the removal of the vehicle/s

(iii) use a tow firm to relocate the vehicle/s to a nearby legal parking place

(iv) notify the Council and police immediately of the move and give details of the vehicle and relocation.

13.17 The powers that may be exercised under this clause are in addition to those provided in Schedule 11 - parts 3 and 4 of the Local Government Act 1989.

Part 14
Noise

Introduction: This Part contains provisions which aim to protect the amenity of *public places* for all citizens by controlling noise in *public places* and by prohibiting or limiting noise from residential premises.

Prohibition against causing excessive noise

14.1 A person must not, unless authorised or permitted by or under any other Act, in, on or over a public place or in premises adjacent to a public place cause or allow noise to unreasonably interfere with a person's use of the public place.

Deliveries to and collections of goods from premises

14.2 Unless in accordance with a permit, deliveries of any goods to or collections of any goods from any non-residential *premises* must only be made between the hours of:

(a) 7.00am and 10.00pm Monday to Saturday; or

(b) 9.00am and 10.00pm Sunday & Public Holidays;

Noise from intruder alarms

14.3 An *owner* or *occupier* of any *premises* must not install, or allow to be installed, or retain in an active state at any *premises*, any intruder alarm that emits a noise audible beyond the boundary of the *premises*, unless the intruder alarm is constructed so that:

(a) whenever the intruder alarm is activated it is automatically rendered inaudible beyond the boundary of the *premises* within 10 minutes of it being activated; and

(b) the intruder alarm cannot re-activate until it has been manually re-set.

14.4 Where an *Authorised Officer* determines that the *owner* or *occupier* has:

(a) contravened clause 14.3; and

(b) the intruder alarm is sounding; and

(c) the *Authorised Officer* cannot, after reasonable efforts, locate the *owner* or *occupier* of the *premises*,

the *Authorised Officer* may enter onto the *premises* and do what is reasonably required to abate the intruder alarm noise.

Part 15
Miscellaneous

Introduction: This Part contains provisions that aim to regulate and prohibit activities in *public places* not elsewhere covered by this Local Law to improve the amenity of the *municipality* and to protect other assets of the *Council*.

General nuisance

15.1 A *person* must not, cause or allow any dust, waste water, waste, mud, concrete, paint, oil, *chemicals* or other material to be blown, conveyed, deposited or discharged in, on or across any *public place*.

Bulk rubbish container

15.2 Unless in accordance with a *permit*, a *person* must not place or cause to be placed a bulk rubbish container in or on a *public place*.

General obstructions

15.3 A *person* must not allow any vegetation, *building* or thing to protrude from *premises* so as to obstruct or interfere with the passage of pedestrians or vehicular traffic in or on a *public place*.

Shopping trolleys

15.4 A *person* must not leave a *shopping trolley* in an area except in an area designated for the leaving of *shopping trolleys*.

Charity and donation collection bins

15.5 A *person* must not, without a permit, *place*, allow to be placed, or allow to remain, a charity or donation bin on any road or on *Council* land.

Fees and Charges

15.6 Council may by resolution determine a fee, charge, fare or rent in relation to any property, undertaking, goods, service or other act, matter or thing.

15.7 Council may:

a) impose specific fees;

b) specify a maximum or minimum fee;

c) specify maximum or minimum fees;

d) provide scales of fees according to the value of goods or services provided for the fees or the project being assessed;

e) require the payment of fees generally or under specific conditions or in specified circumstances;

f) provide for the reduction, waiver or refund, in whole or in part of the fees;

g) provide for the reduction, waiver or refund subject to specified conditions or subject to the

discretion of an authorised officer, on the happening of an event, in respect of certain matters or transactions, in respect certain documents or classes of documents or in respect of persons or classes of persons or in respect of a combination of the above.

Part 16
Permits

Fee required

16.1 The fee payable for the granting of a *permit* is the fee that is *prescribed* by the *Council*.

Further information may be required

16.2 The *Council* or an Authorised Officer may require an applicant to provide it with more information before it deals with the application for a *permit*.

Notice may be required

16.3 The *Council* or an Authorised Officer may require the applicant to give notice of the application for a *permit* in the manner *prescribed* by the *Council*.

Duration of permit

16.4 Except where expressly stated in this Local Law or in a *permit*, a *permit* operates from the date it is issued and expires one year after the date of issue.

Correction of permits

16.5 The *Council* or an Authorised Officer may correct a *permit* if that *permit* contains:

(a) an unintentional error or an omission; or

(b) a material miscalculation or a material mistake in the description of a *person*, thing or property.

16.6 The *Council* or an Authorised Officer must notify a *permit* holder in writing of any correction under clause 16.7.

Exemptions

16.7 The *Council* or a delegate of the *Council* or an Authorised Officer may by written notice exempt any *person* or class of *persons* from the requirement to have a *permit* or pay the *permit* fee, either generally or at specified times;

16.8 An exemption under clause 16.9 may be granted subject to conditions.

16.9 A *person* must comply with the conditions of an exemption under clause 16.9.

16.10 An exemption under clause 16.9 may be cancelled or corrected as if it were a permit.

Cancellation of a permit

16.11 The *Council* or an Authorised Officer may cancel a *permit* if it considers that:

(a) there has been a serious or ongoing breach of the conditions of the *permit*;

(b) a *Notice to Comply* has been issued, but not complied with within the specified time;

(c) there was a significant error or misrepresentation in the application for the *permit; or*

(d) there has been material change of circumstances which has occurred since the issue of the permit.

16.12 Before it cancels a permit under clause 16.13, the Council or an Authorised officer must notify the holder of a permit of the Council's or Authorised Officer's intention to amend or cancel the permit and provide to the permit holder an opportunity to make a written submission before the permit is cancelled.

Conditional permits

16.13 A permit may contain conditions considered to be appropriate in the circumstances included, but not limited, to the following:

(a) the payment of a fee or charge;

(b) the payment of a security deposit, bond or guarantee to *Council* to secure the proper performance of conditions on a *permit* or to rectify any damage caused to *Council assets* as a result of the use of activity allowed by the *permit*;

(c) a time limit to be applied specifying the duration, commencement and completion date;

(d) that the applicant be insured against the risk and to provide a written indemnification of *Council* against liability arising from the activity or use;

(e) the granting of some other *permit* or authorisation.

16.14 The conditions of a permit must be set out in the permit.

Security deposit, bond or guarantee

16.15 Where works carried out on or in a *public place* or in relation to a *public asset* have not been reinstated to the satisfaction of an *Authorised Officer*, *Council* may apply any monies held as that security deposit, bond or guarantee toward the cost of reinstating the *public place* or *Council asset*.

16.16 Where the security deposit, bond or guarantee does not cover *Council's* costs of undertaking the reinstatement works, the *permit* holder or the person who undertook or managed the undertaking of the works must reimburse *Council* the difference.

16.17 Where works are carried out by or on behalf of a Service Authority and the public place or public asset has not been reinstated to the satisfaction of an *Authorised Officer*, the Service Authority must pay to *Council* the actual cost of the reinstatement.

Part 17
Enforcement

Offences

17.1 A *person* who:

(a) fails to comply with this Local Law; or

(b) fails to comply with a condition of a *permit*; or

(c) fails to do anything directed to be done under this Local Law; or

(d) knowingly submits erroneous, inaccurate or misleading information in an application for a *permit*; or

(e) refuses or fails to obey directions of an *Authorised Officer* to leave a *public place* where in the opinion of that *Authorised Officer* the *person* has failed to comply or is failing to comply with this Local Law; or

(f) fails to comply with a sign erected by the *Council*, or

(g) fails to comply with a *Notice to Comply*.

is guilty of an offence.

Infringement notices

17.2 As an alternative to prosecution, an *Authorised Officer* may serve an infringement notice on a *person*, if the *Authorised Officer* has reason to believe that the person has committed an offence against this Local Law.

17.3 The fixed penalty for an individual in respect of an infringement notice is the amount set out in the Schedule to this Local Law. For offences not specified in the Schedule the penalty is 3 *penalty units*.

Offences by Corporations

17.4 The fixed penalty for a corporation in respect of an infringement notice is twice the amount set out in the Schedule to this Local Law. For offences not specified in the Schedule the penalty is 6 *penalty units*.

Clause 17.4 does not apply where the penalty unit set in the Schedule is set at 20 penalty units. In this case the penalty for both individuals and corporations is 20 penalty units.

17.5 That any corporation that is found guilty of the same act for a second time is charged double the penalty units paid for the first offence up to the maximum penalty of 20 units.

17.6 If the corporation is convicted of an offence against this Local Law, a *person* charged under clause 17.4 with the same offence may also be convicted of the offence and is liable to the penalty for that offence unless that *person* proves that the act or omission constituting the offence took place without his or her knowledge or consent.

Court fines

17.7 A *person* guilty of an offence against this Local Law is liable to a penalty:

(a) not exceeding 20 *penalty units*; and

(b) for a continuing offence, not exceeding 3 *penalty units* for each day after the conviction during which the contravention continues.

Costs incurred by the *Council* to be paid

17.8 All costs incurred by the *Council* under this Local Law must be paid by the *owner* or *occupier* of the *premises* concerned and until such costs are paid with any interest payable, the costs remain a charge on the *premises*. This does not include clause 13.14 moving a vehicle for works.

17.9 *Council* may institute proceedings to recover costs incurred by or on behalf of *Council* where damage is caused to a *Council* asset.

Notice to Comply and directions

17.10 An *Authorised Officer* may either orally or in writing direct a person to leave a public place if in the opinion of the *Authorised Officer* the person is failing to comply or has failed to comply with this Local Law.

17.11 Either as an alternative or in addition to an infringement notice, Council may serve a Notice to Comply.

17.12 A *Notice to Comply* may do one or more of the following things:

(a) direct the *person* to comply with this Local Law;

(b) direct the *person* to stop the conduct which constitutes the breach of this Local Law;

(c) direct the *person* to deliver to the *Authorised Officer* or to a specified *person* or a specified location any item or property of the *person* which constitutes the breach of this Local Law;

(d) direct the *person* to remove or cause to be removed any item, goods, equipment or other thing that constitutes a breach of this Local Law;

(e) direct the *person* to leave an area within the time specified in the notice that constitutes a breach of this Local Law.

17.13 A *Notice to Comply* must specify the time and date by which the *person* specified in the *Notice to Comply* must comply with the directions in the Notice.

17.14 The time required by a *Notice to Comply* must be reasonable in the circumstances having regard to:

(a) the amount of work involved; and

(b) the degree of difficulty; and

(c) the availability of necessary materials or other necessary items; and

(d) climatic conditions; and

(e) the degree of risk or potential risk; and

(f) any other relevant factor.

17.15 A *person* served with a *Notice to Comply* may, before the due date on the *Notice to Comply*, request in writing to *Council* an internal review.

Power of Authorised Officer *to act in urgent circumstances*

17.16 Any *Authorised Officer* may in urgent circumstances arising as a result of a failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a *Notice to Comply* provided:

(a) he or she considered the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a *Notice to Comply,* may *place* a *person, animal,* property or thing at risk or in danger; and

(b) details of the circumstances and remedying action are forwarded as soon as practicable to the *person* on whose behalf the action was taken.

17.17 The action taken by an *Authorised Officer* must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.

Power of *Authorised Officer* to impound

17.18 Where a *person* owning or responsible for items, goods, equipment, *bicycle* or other property or thing has ignored a direction from an *Authorised Officer* to remove them; or the items, goods, equipment, *bicycle* or other property or thing is being used or possessed in contravention of this Local Law, the items, goods, equipment, *bicycle* or other property or thing may be confiscated and impounded.

17.19 If an *Authorised Officer* has impounded anything in accordance with this Local Law, the *Council* may refuse to release it until the appropriate fee or charge *prescribed* by the *Council* for its release has been paid to the *Council*.

17.20 As soon as it is reasonably practicable to do so, the *Authorised Officer* must serve a written notice in a form that is prescribed by the *Council* from time to time on the *owner* or person responsible for the impounded item setting out the fees and charges payable and time by which the item must be retrieved.

17.21 If after the time required in a notice an impounded item is not retrieved, an *Authorised Officer* may take action to dispose of the impounded item according to the following principles:

(a) where the item has no saleable value, it may be disposed of in the most economical way; and

(b) where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in sub-clause (a);

(c) where the *owner* has advised the *Council* in writing that the *Council* may dispose of the goods because he or she does not intend to retrieve them, the *Council* may dispose of them by the method identified in sub-clauses (a) and (b).

Part 18
Delegations

18.1 In accordance with section 114 of the Act, the Council hereby delegates to the Chief Executive Officer and Authorised Officers all the powers, discretions, authorities and considerations of Council under this local law including:

(a) the powers, discretions, authorities, make any opinion and consideration to make a direction by Notice to Comply;

(b) the powers, discretions and authority to issue or refuse permits, fix conditions and durations relevant to permits, cancel or suspend permits, require additional information, apply guidelines, standards or codes of practice of Council, waive the need for any permit; or

(c) to do any act, matter or thing necessary or incidental to the exercise of any function or power by the Council.

General Local Law 2018

Schedule 1

Penalties Fixed for Infringements

Clause	Offence	Penalty
Part 2	**Behaviour**	
2.1, 2.2	Prohibited activities in *public places*	3
2.3	Misuse of *toy vehicles*	3
2.4	Destroy or cause damage to trees	10
2.5	Destroy or causing damage to mature trees	20
2.6	Camping in *public places*	3
2.7	Leave item associated with camping in public place	3
2.9, 2.10	Commercial fitness activities	5
2.11	Fencing vacant land	5
2.12	Fences at intersections	3
Part 3	**Consumption of liquor**	
3.1, 3.2	Consumption / possession of *liquor* in prohibited area	3
Part 4	**No Smoking in Smoke Free Areas**	
4.1, 4.2	Smoke in a smoke free area	3
Part 5	**Animals**	
5.1, 5.2	Keeping of *animals*	3.5
5.3 – 5.6	Housing of *animals*	3.5
5.7 – 5.12	*Animals* in a *public place*	3.5
5.13	Conduct a commercial enterprise without a permit	5
Part 6	**Advertising and Use of Shopfronts and Public Places**	
6.1	Unauthorised *advertising sign* or thing on or between Council *buildings*	10
6.2	Unauthorised display of *street art* in or on a *public place*	10
6.3	Unauthorised portable advertising sign in a public place	10

Clause	Offence	Penalty
6.4	Unauthorised goods in a public place	5
6.6	Unauthorised planter or similar structure or thing	5
Part 7	**Street Trading and Special Events**	
7.1	Failure to obtain a permit to solicit trade or similar activities	5
7.2	Failure to obtain a permit to *sell* in a *public place*	5
7.3	Failure to obtain a permit to film or conduct a *special event*	5
7.4	Failure to obtain a permit to place furniture in a *public place*	5
Part 8	**Environment**	
8.1	Prevention of mosquito breeding	3
8.2 – 8.6	Waste	3
8.7 – 8.9	Hard waste	5
8.10 - 8.11	Commercial and industrial waste	20
8.12	Storage and washing of waste containers (commercial and industrial premises)	20
8.13 - 8.14	Collection of trade waste	20
8.15-8.18	Incinerators, fires and open air burning	5
Part 9	**Protection of Council land and assets**	
9.1	Vehicle crossing	10
9.2	Fail to comply with a direction	10
9.3	Failure to obtain relevant permit	10
9.4	Failure to comply with requirements	10
9.5 – 9.11	Asset protection	10
9.12	Additional inspections	10
9.13	Permit required for road occupation	10
9.14	Works on Council land	10
9.15 – 9.16	Damaged Council asset or land	10

Clause	Offence	Penalty
9.17	Trees or plants causing damage to public places	10
9.18-9.19	Works in road reserve	10
9.20	Alteration of public road level	10
Part 10	**Building Works**	
10.1	Failure to give required notice before commencing *building works*	10
10.2	Failure to obtain consent of Council for a *Construction Management Plan prior to commencement of building works*	20
10.4	Failure to comply with a *Construction Management Plan*	20
10.5	Building works on a single dwelling	10
10.6	Building works confined to certain times and places	10
10.7	Heavy vehicle movements	10
10.8	Heavy vehicle engine operating exceeding time limit	5
10.9	Dirty wheels / undercarriage of construction *vehicles*	5
10.10	Building works creating a nuisance	10
10.11	Work on public drains without a permit	10
10.12, 10.13, 10.14	Stormwater drainage system falling into state of disrepair or danger or nuisance	10
10.15	Unauthorised discharge of material	20
10.16	Failure to comply with refuse facility requirements	10
10.17	Failure to comply with placement of refuse facility	10
10.18 -10.21	Failure to comply with storage and delivery requirements	10
10.22	Failure to provide amenity facilities	10
10.23	Failure to provide fencing	10
10.24	Failure to provide contact details	10
10.25	Failure to obtain a permit	10
10.26	Failure to comply with refuse facility requirements	10
10.27	Unauthorised discharge of material	10

Clause	Offence	Penalty
Part 11	**Dilapidated, Dangerous and Unsightly Premises**	
11.1	Allow premises to become dilapidated	5
11.2; 11.4; 11.6	Allow premises to become dangerous or unsightly	5
Part 12	**Naming of Roads and Numbering of Premises**	
12.1	Failure to number premises	3
12.4	Interfering with numbers and street signs	3
Part 13	**Vehicles**	
13.1	Unauthorised vehicle in public places	3
13.2	Unauthorised vehicle in recreational reserve	5
13.3 - 13.4	Repair of vehicle in public places	5
13.5	Heavy vehicle or machinery without a *permit*	5
13.6	Unauthorised attaching of vehicle to a council asset or public place	5
13.7 – 13.12	Unauthorised use of Vehicle Parking Permit	5
13.13 – 13.17	Move vehicles for road works	5
Part 14	**Noise**	
14.1	Excessive noise	10
14.2	Unauthorised delivery of goods	10
14.3	Noise from intruder alarms	5
Part 15	**Miscellaneous**	
15.1	Nuisance	5
15.2	Failure to obtain a permit for bulk rubbish container	5
15.3	Obstruction or interference with passage of pedestrians or traffic	3
15.4	Abandonment of shopping trolley	3
15.5	Placement of charity/donation bin without a permit	5
Part 17	**Notice to Comply and directions**	

Clause	Offence	Penalty
17.1	Failure to comply with a Notice to Comply or direction	5

Schedule 2

Part A – *Smoke free areas*

The following areas are *smoke free areas* for the purposes of Part 4 of this Local Law:

1. any *children's playground*, and any area abutting such *children's playground*, *prescribed* by the *Council*; and
2. any parcel of land on which a *child care centre* is located, and any area abutting such parcel of land, *prescribed* by the *Council*.

Part B – Guidelines for Prescribing *Smoke free areas*

When determining whether to *prescribe* a *smoke free area* for the purposes of clause 4.4 of this Local Law, the *Council* must have regard to the following factors:

1. the size of the proposed *smoke free area*;
2. the opinions of any *Person* who is the *Owner* or *Occupier* of any part of the proposed *smoke free area* or the area immediately adjoining the proposed *smoke free area*;
3. the proximity of the proposed *smoke free area* to a *public place*, part or all of which is not in a *smoke free area*;
4. the extent and outcome of any public consultation on the proposed *smoke free area*;
5. any benefits to the community which would be achieved by the *Council prescribing* the proposed *smoke free area*; and
6. any detriments to the community which would be caused by the *Council prescribing* the proposed *smoke free area*.

This document is issued by the Moreland City Council.

Dr Nerina Di Lorenzo
Chief Executive Officer
and the Moreland City *Council*'s duly appointed delegate.

Attachment 8 - Port Phillip - Local-law-number-1-community-amenity

City of Port Phillip

LOCAL LAW NO. 1
(Community Amenity)

Date: 01 September 2013

Incorporates amendments provided by;

- Community Amenity (Amendment) Local Law No.1 of 24 November 2017
- Community Amenity (Amendment) Local Law No.1 of 10 August 2018

Note: This Local Law should to be read in conjunction with the corresponding provisions in the Council's Procedures and Protocols Manual.

Notes on the City of Port Phillip Local Law No.1 (Community Amenity)

1. This document is a consolidation and re-structure of the previous
   - Community Amenity Local Law No.3, and
   - Footpath Trading Local Law No.7

Attachment 8 - Port Phillip - Local-law-number-1-community-amenity

CITY OF PORT PHILLIP

LOCAL LAW NO 1

(COMMUNITY AMENITY)

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Attachment 8 - Port Phillip - Local-law-number-1-community-amenity

PORT PHILLIP CITY COUNCIL

LOCAL LAW NO. 1
(COMMUNITY AMENITY)

PART 1 - PRELIMINARY PROVISIONS

1. Title

This is the Local Law No.1 (Community Amenity) of 2013.

2. Purpose

The purpose of this Local Law is to provide for the peace, order and good governance of the City of Port Phillip in a way that is complementary to *Council's* Council Plan by:

(1) managing the uses and activities on *roads* and *Council land* so that *Council* is aware of uses or activities which may:

(a) interfere with the safety and convenience of people travelling on or using roads or land; and

(b) impede free and safe access for people, in particular those with sight and movement impairment or disabilities; and

(c) cause damage to Council and community assets; and

(d) create a danger or expose others to risk; and

(e) be detrimental to the amenity of the area or the enjoyment of facilities on roads or land;

(2) managing, regulating and controlling uses and activities which may:

(a) be dangerous, cause a nuisance or be detrimental to the amenity of the area or the environment; and

(b) interfere with a healthy and safe environment in the municipal district for residents, workers and visitors;

(3) identifying uses and activities where a *permit* is not required but conditions are applicable to the use or activity so that the purposes identified in sub-clauses (1) and (2) are achieved; and

(4) providing for the administration of *Council's* powers and functions.

3. Authorising Provision

This Local Law is made under Section 111(1) of the Local Government Act 1989 and Section 42 of the Domestic Animals Act 1994.

4. Commencement, revocation and area of operation

This Local Law:

(1) commences on 01 September 2013;

(2) ceases to operate on 31 August 2023, unless revoked earlier; and

(3) operates throughout the whole municipal district.

5. Revocation of other Local Laws

From the date of commencement of this Local Law, the following local laws are revoked:

(1) Community Amenity Local Law No. 3 of 2003;

(2) Community Amenity (Amendment) Local Law No. 1 of 2005;

(3) Community Amenity (Amendment) Local Law No. 1 of 2008;

(4) Community Amenity (Amendment) Local Law No. 2 of 2008; and

(5) Footpath Activities Local Law (No. 7) of 2009.

6. Definitions of Words used in this Local Law

In this Local Law:

Word	**Definition**
acceptable no smoking sign	has the same meaning as in the *Tobacco Act* 1987
Act	means the *Local Government Act* 1989.
advertising sign	means any placard, sign, pointer board, notice, poster, mobile billboards, banner, or projected image or other similar device whether portable or affixed or attached to any *land*, *building*, bicycle or *vehicle*, which is used for the purposes of: soliciting sales; notifying the presence or location of a property where goods or services may be obtained; or notifying an event or competition, including a community or recreational event, but does not include an advertising sign which requires and has been granted a permit under *Council's planning scheme*.
animal	includes every species of quadruped and every species of bird (including, without limitation, poultry).
appropriate fee	means the appropriate fee determined by *Council* in accordance with this Local Law.
Asset Protection Permit	means a written *permit* issued by *Council* for the protection of public assets and infrastructure during *building works*.

Word	Definition
audible intruder alarm	means a device, installed or retained in a property by the owner or occupier of that property or at the direction of the owner or occupier of the property, which is designed to be (or which has the effect when switched on of being) activated by an intruder to the property so as to emit noise capable of being heard beyond the boundary of the property in which it is installed or retained.
authorised officer	means a person appointed pursuant to section 224 of the *Act* as an authorised officer for the purposes of this Local Law.
beach	includes the sanded areas of Port Phillip Bay generally between the sea-wall and the waters of the Bay that are within the municipal district at any time.
builder	means the person who is nominated as the builder in a building *permit* under the *Building Act* 1993 granted for the *building works*, the person in charge of any *building works* being carried out and the owner of a *building site*.
builder's refuse	includes any solid or liquid domestic or commercial waste, debris or rubbish, and, without limiting the generality of the above, includes any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and other waste material, substance or thing generated by or in connection with *building works*.
building	includes any structure or building, whether temporary or permanent, or part of such building or structure.
building site	includes any *land* on which *building works* are being undertaken.
building works	includes work that is involved with: the construction, demolition, renovation or removal of a *building*, including landscaping and concreting; and the delivery of products or materials used or intended to be used in the construction, demolition, renovation or removal of a *building*; and excavation, *road* making, drainage or other works relating to the *building site* where they are occurring.
bulk rubbish container	means a bin, container or other structure designed or used for holding a substantial quantity of rubbish that is unable to be lifted or relocated without mechanical assistance but does not include bins or containers used in connection with the regular collection of domestic, commercial, industrial or trade waste.
busk and *busking*	mean entertainment that includes playing a musical instrument, singing, conjuring, juggling, mime, mimicry, dance, puppetry, performance art, pavement drawing of any form, recitation and other appropriate theatrical and visual forms.

Word	Definition
carriageway	means the portion of the *road* generally available for traffic by *vehicles* (whether sealed, formed or unconstructed).
Charity Bin	includes *clothing recycling bin* and any other receptacle used to collect donated goods for charities.
Chief Executive Officer	means the Chief Executive Officer of *Council*.
clothing recycling bin	means a bin or similar container used for the collection of used clothing.
commercial fitness activities	means any individual or group fitness activities involving a *commercial fitness trainer* who derives a payment or reward, either directly or indirectly, in connection with such fitness activities, and includes (but is not limited to): • gym sessions (with or without weights, fit balls, skipping ropes or other personal fitness equipment); • boxing and pad training; • organised aerobic activities; • yoga, tai chi and pilates classes and like activities; • circuit training; • jogging; • soccer; and • any combination of the above.
commercial fitness trainer	means a person who conducts *commercial fitness activities.*
commercial premises	means premises used: primarily for commercial purposes; as a hostel, rooming house or student dormitory; or for short-term or other accommodation for commercial gain (including for the accommodation of backpackers).
community advertising sign	means a temporary *advertising sign* erected by a community group.
community group	includes (but is not limited to): • any non-profit aged care, disability, youth, art and culture group based in the municipality; • a school or preschool based in the municipality; or • a branch of service club based in the municipality.
construction period	means the period during which *building works* are carried out.
container	means mobile garbage bin provided by *Council* for the collection of garbage or recyclable materials or a crate provided by *Council* for recyclable materials.

Word	Definition
Council	means Port Phillip City Council.
Council assets and *public assets*	means footpath, kerb and channel, nature strip, parking signs, irrigation or sprinkler systems, trees, shrubs and other vegetation, street furniture, *vehicle crossings* or other *Council* property or works forming part of a *road* or *Council land*.
Council land	means *land*, *buildings* and facilities which are owned or occupied by or vested in *Council* or in respect of which *Council* has the care and management to which the public has access whether an entry fee is paid or not and includes a *public place*.
Council Reserve	means: • Wattie Watson Oval, Elwood Park; • Esplanade Oval/cricket ground 2, Elwood Park; • Head Street Grounds A & B, Elwood Park; • Peanut Farm Oval, Peanut Farm Reserve; • Alma Park Oval, Alma Park; • Lagoon Oval, Lagoon Reserve; • Anderson Oval 1, J.L. Murphy Reserve; • Anderson Oval 2, J.L Murphy Reserve; • G.S. Williams Oval, J.L. Murphy Reserve; • A.T. Aanensen Oval, J.L. Murphy Reserve; • J.M. Woodruff Oval, J.L. Murphy Reserve; and • North Port Oval, Port Melbourne Oval.
crane	has the same meaning as the *Occupational Health and Safety Regulations* 2007.
declared road	means a *road* for which the Roads Corporation is the co-ordinating road authority under the *Road Management Act* 2004.
designate and *designated by Council*	means set out or having set out any matter or thing by resolution of *Council* or an *authorised officer* through the exercise of a delegated power or function, the details of which appear on *Council's* website.
footpath	means the area between the property boundary and the kerbside of a *road* that is provided for use by pedestrians.
footpath object	means an object listed in clause 10 of this Local Law that is placed on a *footpath*.
foreshore	means coastal Crown land within the meaning of the *Coastal Management Act* 1995.
foreshore waters	means the area of seawater from the high-water mark along the *beach* at any time that is within the municipal district and extending seawards 150 metres.

Word	Definition
Grand Prix parking permit	means a *permit* which authorises parking in the Local Access Only Zone or the Middle Park Area during the holding of the Australian Grand Prix.
Guidelines	means any guidelines made by Council under clause 10(1) of this Local Law.
heavy vehicle	has the same meaning as in rule 200 of the Road Safety Road Rules 2017.
incinerator	means a structure or device which: • is used or intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance; • is not licensed or otherwise subject to control under the provisions of any Act; and • is not a barbeque.
incorporated document	means any document identified by clause 7 of this Local Law as incorporated into this Local Law.
itinerant trading	means offering free of charge or selling or offering for sale or hire goods or services from a temporary location, from place to place, from a *vehicle* or from door to door.
land	has the same meaning as in the *Planning and Environment Act* 1987
Local Access Only Zone	means the area *designated by Council* as the 'Local Access Only Zone' in accordance with the *Parking Permit Policy*.
local street	means a *road* for which *Council* has the care and management.
market site	includes a stall or stand within a market operated by *Council* or a stall operated on *Council land*.
Middle Park Area	means the part of the *Local Access Only Zone designated by Council* as the Middle Park Area in accordance with the *Parking Permit Policy*.
minor building works	means *building works* valued at less than $5,000 but excludes demolition and removal of *buildings* and other structures (regardless of value).
outdoor commercial recreational activity	means recreational and sporting activities conducted outdoors on beaches, foreshore areas, parks and other *public places* from temporary or permanent facilities, and for which a commercial fee is charged. Examples of *commercial recreational activities* include skydiving, kite-boarding instruction and hire, kayaking instruction and hire and *commercial fitness activities*. The term *commercial recreational activity* does not include a one-off or occasional event.

Note: One-off or occasional events would be *special events*.

Word	Definition
parking meter	means a device that, on the insertion of money or other designated methods of payment, automatically gauges the period for which a *vehicle* may be left standing in the space in the *parking area* to which the *parking meter* relates, or in the case of a *parking meter* that relates to more than one such space, in any one of those spaces.
permit	means a permit issued under this Local Law which authorises that use or activity including an *Asset Protection Permit* and in the case of a market operated by *Council* includes a licence or a lease.
personal watercraft	includes an aqua scooter, jet bike, power ski, wave runner, wave jammer, ski free motorised surfboard or any similar vessel that has an engine used for propulsion.
place, placed, places, placing and placement	means permitting the relevant *footpath object* to remain on the *footpath*, as well as the actual act of putting the *footpath object* on the *footpath*.
Planning Scheme	means the Planning Scheme operating in the municipal district that is made under the *Planning and Environment Act* 1987.
planter boxes	means a container made of any material designed to display plants on *footpaths* or for segregating parts of the *footpath* (whether containing plants or not).
public place	has the same meaning as in the *Summary Offences Act* 1966.
race period	has the same meaning as in the *Australian Grand Prix Act* 1994.
redundant	means no longer required or of use, whether because of a change in the use of *land* in respect of which the *vehicle crossing* was constructed or otherwise.
refuse facility	means a suitable rubbish receptacle capable of retaining all waste material and *builder's refuse* within the *building site* and preventing removal by unauthorised persons or the intervention of wind or water.
registered	means, in respect of a *vehicle* or *trailer*, registered by Vic Roads under the *Road Safety Act* 1986 or by an equivalent registration authority in another State or Territory.
reserve	means any park, garden, reserve or other place of public recreation or resort.
residential parking area	means a *parking area* in which lawful parking is restricted, whether for the whole or a part of a day, to residents of a particular area.
residential parking permit	means a permit authorising a person to park in a *residential parking permit area*.

Word	Definition
residential premises	means premises used primarily for residential purposes.
road	includes: • a street; and • a right of way; and • any *land* reserved or proclaimed as a street or *road* under the *Crown Land (Reserves) Act* 1978 or the *Land Act* 1958; and • a passage; and • a cul de sac; and • a by-pass; and • a bridge or ford; and • a *footpath*, bicycle path or nature strip; and • any culvert or kerbing or other *land* or works forming part of the *road*.
road related area	has the same meaning as in the *Road Safety Road Rules* 2017.
screen	means a covered frame or the like, movable or fixed, serving as a partition between the *footpath* and the road or segregating parts of the *footpath*.
security bond	means a payment or guarantee made to *Council* for the purposes of securing public assets and infrastructure from the cost of damage during *building works*.
senior officer	has the same meaning as in the *Local Government Act* 1989.
significant tree or palm	means a tree or a palm on private *land*: • with a trunk circumference of 150 centimetres or greater measured 1 metre from its base; • a multi-stemmed tree on private *land* where the circumference of its exterior stems equals or is greater than 1.5 metres when measured 1 metre from its base; or • if the tree has been removed a trunk circumference of 150 centimetres or greater measured at its base.
smoke	means to smoke, hold or otherwise have control over an ignited *tobacco product*, or light a *tobacco product*.
smoke free area	means an area designated to be a *smoke free area* in accordance with clause 55.

Word	Definition
special event	means an organised sporting, recreational, cultural, commercial or social gathering of twenty (20) or more people, including a market, promotional activity or wedding, which is held on a *road* or *Council land* other than the area designated by the *Australian Grand Prix Act* 1994 during the *race period*.
St. Kilda precinct	means that area being from the foreshore along Thackeray Street to Barkly Street, along Barkly Street to Fitzroy Street, along Fitzroy Street to Canterbury Road, along Canterbury Road to Cowderoy Street then down Cowderoy Street to the *foreshore*, including the *beach*.
standard condition	means any condition identified as a standard condition in an *incorporated document*.
stormwater system	means a system which provides for the conveyance of stormwater run-off, including kerb and channel, open channels, underground pipe systems and natural waterways.
street party	means an organised social gathering of up to 150 people which is held on a *road* or *Council land* which is for the sole purpose of bringing together people in a particular area or community.
temporary vehicle crossing	means a constructed form of wooden panels or other *Council* approved structure over a bed of sand, that extends from the boundary of *land* over any public assets such as footpaths, nature strips, kerbs and channels to the *road*, and is designed to minimise damage to assets caused by *vehicles* and materials entering and leaving the *land* during the currency of *building works*.
ticket vending machine	means a device that, on the insertion of money or other designated methods of payment, issues a ticket with an imprint indicating the date and time of issue of the ticket and the expiry time in the *parking area* to which the ticket vending machine relates.
tobacco product	has the same meaning as the *Tobacco Act 1987*
trailer	has the same meaning as in the *Road Safety Act* 1986.
unregistered	means, in respect of a *vehicle* or *trailer*, a vehicle or trailer that is not *registered*.
vehicle	has the same meaning as 'motor vehicle' in the *Road Safety Act* 1986 but does not include a bicycle, motorised scooter or tram.
vehicle crossing	means an opening or artificial surface which allows or facilitates access from a *road* to *land* which abuts that *road*.

7. Incorporation of Documents

(1) The document titled "*Procedures and Protocols Manual*", as made by *Council* and published from time to time on *Council's* website, is hereby incorporated into this Local Law.

(2) The document titled "*Parking Permit Policy*", as made by *Council* and published from time to time on *Council's* website, is hereby incorporated into this Local Law.

(3) The document titled "*Footpath Trading Guidelines*", as made by *Council* and published from time to time on *Council's* website, is hereby incorporated into this Local Law.

(4) The document titled "*Nature Strip Guidelines*", as made by *Council* and published from time to time on *Council's* website, is hereby incorporated into this Local Law.

8. Interpretation

(1) Any activity or other matter that requires consent or approval of *Council* under the *Road Management Act* 2004 is to be evidenced by way of the grant of a *permit* under this Local Law.

(2) Introductions to Parts and Notes do not form part of this Local Law. They are provided to assist understanding.

PART 2 - ACTIVITIES AND USES REQUIRING A PERMIT

Introduction

In this Part, provision is made for a permit or consent (as the case may be) to be obtained from Council before a person carries out the following uses or activities:

- *placing footpath objects* as specified in clause 10;
- placing *advertising signs* as specified in clause 11;
- *itinerant trading* as specified in clause 12;
- *itinerant trading from house to house* as specified by clause 13;
- occupation of the *road* as specified in clause 14;
- having a *special event* as specified in clause 15;
- holding a *street party* as specified in clause 16;
- conducting certain activities in *St Kilda precinct* during the St Kilda Festival as specified in clause 17;
- filming as specified in clause 18;
- *busking*, fund raising and promotional activities and any form of street stall as specified in clause 19;
- placing *bulk rubbish containers* as specified in clause 20;
- occupying *market sites* as specified in clause 21;
- connecting into *Council* drains except where exempted by clause 22;
- keeping excess numbers of *animals* as specified in clause 23;

- carrying out works where those works may damage *Council assets* as specified in clause 24;
- placing *clothing recycling bins* as specified in clause 25;
- conducting *commercial fitness activities* as specified in clause 26;
- taking off or landing in a hot air balloon or skydiving onto *Council land* as specified in clause 27;
- placing or allowing to remain on the *foreshore* or *beach* an inflatable sign, display or like object as specified in clause 28;
- discharging fireworks as specified in clause 29; and
- keeping or allowing to be kept a *heavy vehicle vehicle* on *residential premises*.

DIVISION 1 – MANAGEMENT BY PERMIT

9. Permits and Offences

(1) A person who fails to obtain a permit when a permit is required under this Local Law is guilty of an offence against this Local Law.

Penalty: 20 penalty units (unless provided otherwise)

(2) In addition to the requirement to obtain a *permit*, a person must comply with:

(a) any requirements or limitations that this Local Law applies to a use or activity to a person under this Part;

(b) any requirement that an *incorporated document* applies to the use or activity authorised by the *permit*; and

(c) any conditions of a *permit*.

Penalty: 20 penalty units (unless provided otherwise)

(3) In deciding whether to grant a *permit* under this Local Law, *Council* may take into consideration whether the proposed use or activity will:

(a) comply with any related policies of *Council*;

(b) cause a danger or hazard to pedestrians or *vehicles*;

(c) disturb, annoy or disrupt adjacent property owners or occupiers;

(d) be detrimental to the amenity of the area;

(e) be done without destruction to native vegetation on *roads* or *Council land*;

(f) have the potential to cause damage to *Council assets*;

(g) require approval or compliance with requirements under any other legislation;

(h) require the consent, or should be referred to obtain the opinion of any other public authority;

(i) require additional arrangements to be made for waste water disposal, litter and garbage disposal, lighting and security and *advertising signs*;

(j) obstruct a *footpath*;

(k) necessitate the applicant to have insurance against any risk;

(l) necessitate a written indemnification of *Council* against liability arising from activities authorised by the *permit*; and

(m) require consideration of any other matters relevant to the circumstances of the application.

DIVISION 2 – EXPANDED REQUIREMENTS, LIMITATIONS AND EXEMPTIONS

10. Footpath Activities

Permit requirement

(1) A *permit* is required to *place* one or more of the following objects on a *footpath*:

(a) tables;

(b) chairs;

(c) umbrellas;

(d) screens;

(e) planter boxes;

(f) goods for sale; or

(g) other equipment ancillary to a business;

Criteria for grant of permit

(2) In deciding whether to grant a *permit* for the *placement* of a *footpath object*, *Council* may have regard to:

(a) the effect on pedestrian traffic flows and safety;

(b) the impact on the appearance of the street and its surroundings;

(c) the impact on residential amenity;

(d) the duration of the use;

(e) the effect on vehicular traffic flows and safety;

(f) compatibility with other uses in the street;

(g) whether it is complementary to the primary adjoining use;

(h) whether it is less intensive than the primary adjoining use;

(i) the applicant's previous record of compliance;

(j) any relevant policies of *Council*; and

(k) any other matter relevant to the application.

Council to provide registration sticker

(3) When *Council* grants a *permit* for the *placement* of a *footpath object*, it must provide a registration sticker to the permit holder as evidence of the currency of the *permit*.

Registration sticker to be displayed

(4) If a *permit* is issued for one or more *footpath objects* listed in sub-clause (3), the permit holder must display the sticker in the shop window of the premises to which the *permit* relates.

Offence not to display registration sticker

(5) A permit holder who fails to display the sticker is guilty of an offence against this Local Law.

Penalty: 10 penalty units

Placement of footpath objects to comply with Guidelines

(6) A person placing a footpath object on a footpath must comply with the Footpath Trading Guidelines.

Offence not to comply with Guidelines

(7) A person who fails to comply with the requirements of the *Footpath Trading Guidelines* is guilty of an offence against this Local Law.

Penalty: 20 penalty units

Sale and consumption of liquor in footpath trading zone

(8) Liquor can be sold or consumed in the footpath trading zone, providing this condition has been included in the person's footpath trading permit.

11. Advertising Signs

Permit requirement

(1) A *permit* is required to place an *advertising sign* on or in:

(a) a road, road related area or Council land; or

(b) an area designated by Council; or

(c) any other location likely to interfere with the vision of a pedestrian or driver.

Community advertising signs

(2) A community group may apply for a community advertising sign.

Additional criteria for grant of permit

(3) In considering whether to grant a *permit* for an *advertising sign*, in addition to the matters specified in clause 9(3), the Council must have regard to:

(a) the appropriateness of the proposed location to the community event advertised;

(b) the impact of the proposed sign on visual amenity;

(c) any traffic and safety issue associated with the location and design of the sign; and

(d) any other relevant matter to the circumstances of the application.

Proof of permission to place signs to be produced on request

(4) Where an *advertising sign* is proposed to be placed on *land* or fixtures that are not *Council land*, the permission of the owner must be obtained and evidence of that permission must be produced to an *authorised officer* upon request.

Offence to fail to comply with this clause

(5) If an *advertising sign* is placed in breach of this clause 11:

(a) the person who is the owner of the business, event or activity to which the *advertising sign* relates; or

(b) the person who has the management and control of premises, property, business, event or activity to which the *advertising sign* relates; or

(c) the person who is the promoter of the premises, property, business, event or activity to which the *advertising sign* relates; or

(d) the person who is responsible for the placement, siting or distribution of the *advertising sign* (including, without limitation, the person who engages another whether as an employee or agent to place, site or distribute the *advertising sign*),

is each guilty of an offence against this Local Law, whether or not the person who placed the advertising sign is identified or prosecuted.

Penalty: 20 penalty units

Council may designate matters

(6) Council may designate:

(a) *advertising signs* relating to particular uses or activities that are exempt from the requirements of this provision; or

(b) areas where *advertising signs* are permitted, limited or prohibited.

12. Itinerant Trading

Permit requirement

(1) A *permit* is required to engage in *itinerant trading* from:

(a) a vehicle;

(b) any other temporary method of transport including a caravan, trailer, table, stall or other similar structure;

(c) a road related area;

(d) a property or *public place* adjacent to a *road* or a person on a *road* or *public place*; or

(e) any beach or in foreshore waters.

Exemption from permit requirement

(2) The requirement to obtain a *permit* for *itinerant trading* does not apply where:

(a) *Council* has *designated* trading sites and has accepted the tender of a person to occupy a *designated* trading site; or

(b) a person (including a benevolent or charitable organisation) has written permission from *Council* for the provision of free services at a *designated* location.

13. Itinerant trading from house to house

Permit requirement

(1) A *permit* is required to engage in *itinerant trading* by selling or offering goods or services for sale from house to house.

Exemption from permit requirement

(2) The requirement to obtain a *permit* does not apply to:

(a) newspapers or magazines being home delivered;

(b) the home delivery of goods purchased at another location;

(c) the home delivery of goods where such delivery has been request by the occupier of the house;

(d) the sale of fundraising products by persons duly authorised by an educational, cultural or recreational facility or organisation which is established within the municipal district.

14. Occupation of Roads

Permit requirement

(1) A *permit* is required to occupy (whether wholly or partially) a *road*:

(a) for any works that involve:

(i) fencing off part of a *road*;

(ii) erecting a hoarding, scaffolding or overhead protective awning;

(iii) using a mobile *crane* or travel tower for any *building works*;

(iv) making a hole or excavation;

(v) reinstating a hole or excavation; and

(vi) leaving or storing any building, paving or other construction materials or any tools, machinery, plant or equipment; or

(b) for any other non-road purpose which does not involve a *special event*.

Exemption from permit requirement

(2) The requirement to obtain a *permit* does not apply to the works of service authorities:

(a) in an emergency or urgent circumstances; or

(b) when works are being carried out in accordance with the *Road Management Act* 2004.

(3) The requirement to obtain a *permit* does not apply to the works of contractors undertaking any works within a *road* or *road related area* for or on behalf of *Council*.

(4) Nothing in sub-clause (2) or (3) exempts a person from an obligation to notify *Council* of the location of the works prior to them beginning or, in an emergency or urgent circumstances, on the next working day following the works beginning.

Additional criteria for grant of a permit

(5) In considering whether to grant a *permit* to occupy a *road* under sub-clause (1), in addition to the matters specified in clause 9(3) *Council* must have regard to:

(a) the nature and duration of the works;

(b) the likely hazard that the works may constitute to users of the *road*;

(c) the impact of the works on the amenity of the adjoining area;

(d) whether an indemnity/guarantee has been provided to *Council*; and

(e) any other matter relevant to the circumstances of the application.

15. Special events

Permit requirement

(1) A permit is required to conduct a special event on a road or on Council land.

Penalty: 20 penalty units

Application requirements

(2) An applicant for a *permit* to hold a *special event* must provide:

(a) details of the event in the format required by *Council*;

(b) detailed event operations and management plans;

(c) evidence of support from emergency service providers;

(d) proof that approval has been sought for all other regulatory requirements, including (but not limited to) liquor licences, Phonographic Company of Australia Ltd licences and building permits; and

(e) a certificate of currency indicating that the applicant has public liability insurance with a cover of at least $20 million.

Conditions on permit for special event

(3) Without limiting *Council's* powers under Part 5 of this Local Law, in granting a *permit* for a *special event*, *Council* may require:

(a) additional applications for *permits* for extended street trading; and

(b) additional applications for liquor licences from licensed premises for consideration by *Council*.

Notice to affected persons

(4) If *Council* grants a *permit* for a *special event* and having regard to the type of *special event* that is to occur, the applicant must:

(a) provide specific details to affected residents and businesses in writing on the extent of traffic closures and other measures to be taken relating to the event; and

(b) undertake any other notification that *Council* considers relevant to the circumstances or that is required by this Local Law or the *Procedures and Protocols Manual*.

Council may alter parking restrictions

(5) If *Council* has granted a *permit* for a *special event*, *Council* may apply revised parking restrictions for the period of the *special event*.

16. Street party

Consent to hold a street party

(1) *Council's* written consent must be obtained to hold a *street party*.

Consent may be subject to conditions

(2) In granting consent to hold a *street party*, *Council* may impose any condition it considers appropriate in the circumstances.

Street parties not to be held on declared roads

(3) A *street party* may be held on a *local street* but must not be held on a *declared road*.

17. St Kilda Festival activities

Permit requirement

(1) A *permit* is required to conduct any of the following activities in the *St Kilda precinct* on the day of the St Kilda Festival:

(a) trading, whether *itinerant trading* or trading from a fixed position;

(b) *busking*;

(c) the erection of temporary fencing;

(d) the conduct of a *special event*;

(e) filming and commercial photography; and

(f) providing samples of goods or services for promotional purposes.

Other permits inapplicable

(2) For the avoidance of doubt, where a *permit* is required for an activity under this clause a *permit* for the same activity issued under a different clause does not authorise conduct of that activity in the *St Kilda precinct* on the day of the St Kilda Festival.

18. Filming

Permit requirement

(1) A *permit* is required to film on a *road* or *Council land* where the film is for commercial, public or community purposes or public exhibition.

19. Busking, Fundraising and Street Stalls

Permit requirement

(1) A *permit* is required to:

(a) busk;

(b) engage in a fundraising activity;

(c) conduct any promotional activity; or

(d) conduct a street stall,

on a road or Council land.

Busking, etc. other than on roads or Council land

(2) Where a person intends to *busk*, fundraise or conduct any promotional activity or have a street stall on *land* to which members of the public have access but is not a *road* or *Council land*, the permission of the owner must be obtained and evidence of that permission must be produced to an *authorised officer* upon request.

Council may designate areas

(3) *Council* may *designate* areas where *busking*, a fundraising activity or promotional activities or any form of street stall is permitted or limited.

Exemption

(4) A person is not guilty of an offence under sub-clause (1) where that person establishes that he or she:

(a) is homeless or in need of secure accommodation; or

(b) has complex needs or is in the need of additional assistance because of mental or physical disability or illness.

20. Bulk Rubbish Containers (Skip bins)

Permit requirement

(1) A permit is required to place a bulk rubbish container on a road or Council land.

Additional criteria for grant of a permit

(2) In considering whether to grant a *permit* for a bulk rubbish container under this clause, in addition to the criteria specified in clause 9(3) *Council* must have regard to:

(a) whether the *placement* will obstruct the passage of *vehicles* and pedestrians, obscure the view of motorists or present a physical hazard;

(b) whether the *placement* will contravene any traffic control signs;

(c) whether hazard lights can be securely attached on the side nearest passing traffic or placed on a *carriageway*, so as an approaching motorist can identify the extent and form of the container;

(d) the need to protect *Council assets*;

(e) whether the activity is covered by appropriate insurance and the applicant has provided an indemnity/guarantee to *Council*; and

(f) any other matter relevant to the circumstances of the application.

Offence to place unidentified bulk rubbish container

(3) A person must not *place* or allow to remain on *Council land* a *bulk rubbish container* which does not prominently display the name and contact details of the person responsible for the *bulk rubbish container*.

21. Occupying Market Sites

Permit requirement

(1) A *permit* is required to occupy a *market site* on *Council land*.

Note: A *permit*, as defined under clause 6 of this Local Law, includes a lease or licence for a *market site*. As such, a holder of lease or licence for a *market site* granted by *Council* may occupy a *market site* without the need for an additional *permit*.

Procedures for allocation of market sites

(2) In allocating *market sites*, *Council* must apply the procedures set out in the *Procedures and Protocols Manual*.

Occupier to comply with Manual

(3) An occupier of a *market site* must comply with the requirements in the *Procedures and Protocols Manual* to the extent that the requirements in the *Procedures and Protocols Manual* are not inconsistent with any licence or lease.

22. Connecting into Council drains

Permit requirement

(1) Subject to sub-clause (2), a *permit* is required to tap into or interfere with any *Council* drain.

Exemption from permit requirement

(2) The requirement to obtain a *permit* does not apply where *Council* has certified a plan of subdivision or given its approval for the drain to be tapped under other legislation administered by it.

23. Keeping excess numbers of animals

Permit requirement

(1) Unless permitted under the *Planning Scheme*, a *permit* is required to keep or allow to be kept on any *land*, any more of each species or group of *animals* and birds than is specified in Part 17 of the *Procedures and Protocols Manual*.

Further permit required

(2) A *permit* issued under this clause is valid for the *animals* named in the *permit* at the address stated in the *permit*. A new *permit* is required if:

(a) any additional *animals* are acquired; or

(b) the *animals* are moved to a new address within the municipality.

Period of permit

(3) Notwithstanding sub-clause (1), a *permit* for the keeping of an *animal* is valid for the life of that *animal*.

Animals to be adequately housed

(4) An owner or occupier of residential, commercial or industrial *land* must keep *animals* housed in a way which:

(a) is adequate and appropriate for the type and numbers of *animals* being kept; and

(b) is not offensive; and

(c) protects adjoining properties from *animal* noise; and

(d) does not adversely impact on the amenity of the area.

Offence to keep rooster on residential premises

(5) An owner or occupier of *residential premises* must not keep, allow to be kept or harbour on those residential premises any rooster.

Penalty: 10 penalty units

24. Asset Protection Permit

Permit requirement

(1) A *builder* requires an *Asset Protection Permit* to carry out or allow to be carried out *building works* on *land*.

Penalty: 20 penalty units

Conditions on Asset Protection Permit

(2) Without limiting *Council's* powers under Part 5 of this Local Law, an *Asset Protection Permit* may be subject to such conditions as *Council* determines including:

(a) requiring protection works to be done;

(b) requiring the payment of a *security* bond;

(c) requiring the erection of temporary fencing to the satisfaction of *Council*;

(d) requiring that any or all *public assets* or infrastructure damage be repaired, replaced or re-instated within a specified time; or

(e) requiring a temporary vehicle crossing to be installed to *Council's* specification before commencement of any *building works* or delivery of any equipment or materials to the *land*.

Amount of security bonds

(3) The amount of any *security bond* required under any *Asset Protection Permit* is to be proportionate to the likely costs of repairing any potential damage to any existing *road* (including *carriageway*), channel, drain, *vehicle crossing* or other *public asset* arising from the *building works*. Nothing in this clause prevents *Council* from setting a lower amount if it considers it is appropriate to do so.

Retention and return of security bond

For the purpose of this clause the completion of building works includes abandonment of a building site.

(4) A *security bond* may be refunded by *Council* upon:

(a) an application for a refund of the *security bond* by the person who lodged it, made within 6 months of the date of completion of the *building works*; and

(b) *Council* being satisfied that no damage has been caused, or that any damage caused has been repaired by, or on behalf of, that person to *Council's* satisfaction.

(4A) The *security bond* may be retained by *Council*, to offset the costs incurred, or anticipated to be incurred by *Council*, in carrying out any repairs to *public assets* which are required as a result of, or associated with, the *building works*.

(4B) If an application for a refund of a *security bond* is not made within 6 months of completion of the *building works* in accordance with sub-clause (4)(a), then *Council* may retain the *security bond* to offset the costs incurred by or anticipated to be incurred by *Council*, in carrying out any repairs to *public assets* which are required as a result of, or associated with, the *building works*.

(4C) If a *security bond* is or any surplus funds are not required to be retained by *Council* for repairs in accordance with sub-clause (4A) but are not claimed within 12 months of completion of the *building works*, the security bond or surplus funds will be forwarded by *Council* to the Registrar of Unclaimed Money, in accordance with the requirements of the *Unclaimed Money Act* 2008.

Council may accept alternative security

(5) Where *Council* so determines, it may agree to accept an alternative form of security to a *security bond*.

Power to enter land

(6) An *authorised officer* may enter any *land* at any reasonable time for the purpose of inspecting any sewered toilet, portable toilet (closet) systems, urinals, pans, receptacles, *vehicles*, plant and any other things and placed on them and for the purpose of carrying out the provisions of this Local Law.

25. Clothing Recycling Bins

Permit requirement

(1) A permit is required to place a clothing recycling bin on Council land.

Application requirements

(2) In applying for a *permit*, or the renewal of a *permit*, the applicant must:

(a) have public liability insurance of $10 million and must provide *Council* with a current insurance certificate of currency;

(b) specify the type, design, construction, colour and finish of any bin used for the collection of clothing;

(c) specify the time, nature, location and frequency of the proposed collection, including reference to preserving the amenity of the location during weekends, holidays (including Christmas, New Year, Easter and school holidays) and the 48 hours immediately after such holidays;

(d) ensure that bins will be serviced to maintain cleanliness and to ensure a four hour response to untidy locations;

(e) demonstrate that the site:

(i) is in an appropriate location;

(ii) has parking availability in close proximity;

(iii) that the installation, or continued *placement*, of the *clothing recycling bin* will not result in any loss of parking; and

(iv) is visible and well lit;

(f) show that the installation, or continued *placement*, of the *clothing recycling bin* is not likely to cause an obstruction or amenity concerns; and

(g) submit information that evidences that it is a charity within the meaning of the *Charities Act* 2013 (Cth).

Additional criteria for the grant of a permit

(3) In addition to the criteria specified in clause 9(3) of this Local Law, *Council*, in determining whether to grant a *permit* under this clause, must have regard to:

(a) the matters mentioned in sub-clause (2); and

(b) any other matter relevant to the circumstances associated with the application.

(4) A *permit* to *place* a *clothing recycling bin* on a *footpath* will only be granted if the adjacent property owner/s approve and where the *placement* will not adversely affect visual amenity or impede pedestrian access.

Maximum of four bins permitted on any one site

(5) *Council* must not authorise more than four *clothing recycling bins* on any one site.

26. Outdoor Commercial Recreational Activities

Permit requirement

(1) A permit is required to conduct an outdoor commercial recreational activity on Council land.

Permit to be produced on request

(2) The operator of an *outdoor commercial recreational activity* must produce a *permit* to an *authorised officer* when conducting activities on *Council land*, upon request.

27. Hot Air Balloons and Skydiving

Permit requirements

(1) A *permit* is required to

(a) take off from; or

(b) land on

Council land in a hot air balloon.

(2) A *permit* is required to skydive from an aeroplane or helicopter so as to land on *Council land*.

No permit required for emergency landing

(3) Nothing in sub-clause (1) or (2) applies to a person who lands on *Council land* because of an emergency landing.

28. Inflatable Displays on Foreshore or Beaches

Permit requirements

(1) A *permit* is required to place or allow to remain on the *foreshore* or a *beach* any inflatable sign, display or like object.

(2) Any inflatable sign, display or like object permitted under sub-clause (1) must be anchored.

(3) Failure to anchor an inflatable sign, display or like object will void any *permit*.

(4) For the purpose of this clause, "anchor" means to secure or fix in a static position, without an ability to be moved.

29. Fireworks

Permit requirement

A permit is required to discharge or cause or allow to be discharged any fireworks from Council land.

29A. Heavy Vehicles

Permit requirement

A permit is required to keep or allow to be kept a *heavy vehicle* on *residential premises*.

Penalty: 20 penalty units

PART 3 - CONDITIONAL ACTIVITIES AND USES

Introduction

In this Part, provision is made for a person to observe the requirements of this Local Law applicable to:

- managing amenity on building sites by clause 31;
- requirement for fencing by clause 31A;
- extended hours for building works on a dwelling by clause 32;
- protection of Council assets by clause 33;
- industrial, trade and commercial waste by clause 34;
- commercial premises by clause 35;
- domestic waste and recyclable materials by clause 36;
- the installation and retention of active audible intruder alarms by clause 37;
- the location of trees, plants and signs on a property by clause 38;
- the display of property numbers by clause 39;
- vehicle crossings by clause 40;
- parking of vehicles by clauses 41, 42, and 43;
- significant trees by clause 44;
- the use of Council reserves for organised activities by clause 45;
- the maintenance of stormwater pipes by clause 46; and
- the management of groundwater by clause 46A.

DIVISION 1 – MANAGING POTENTIAL NUISANCE USES AND ACTIVITIES

30. Offences

A person who fails to comply with the requirements applied to any of the uses or activities in this Part is guilty of an offence against this Local Law and liable to the penalty specified.

Penalty: 5 penalty units (unless provided otherwise)

31. Managing Amenity on Building Sites

Builder to comply with management measures

(1) A *builder* must comply with the measures for the management of a *building site* stated in the *Procedures and Protocols Manual*.

Penalty: 20 penalty units

Builder to keep record of compliance

(2) A *builder* must keep a daily record of compliance with the measures in the approved form contained in the *Procedures and Protocols Manual*.

Records to be produced on request

(3) The daily records referred to in sub-clause (2) must be produced by a *builder* if requested by an *authorised officer*.

Building works to be carried out at certain times

(4) A *builder* requires a *permit* to carry out *building works* on a *building site* other than between the following hours:

(a) 7.00 am to 6.00 pm Monday to Friday; and

(b) 9.00 am to 3.00 pm Saturday.

Penalty: 20 penalty units

(5) A *builder* must not carry out *building works* on a *building site* on a public holiday that is a public holiday under the *Public Holidays Act* 1993.

Penalty: 20 penalty units.

Criteria for grant of permit to conduct building work out of hours

(6) In determining whether to grant a permit under sub-clause (4), Council must have regard to:

(a) the nature of the proposed works;

(b) the time and circumstances in which the works will be carried out;

(c) the likely volume, intensity, and duration of the noise levels that will be emitted by the proposed works;

(d) any previous applications made or *permits* granted to that person, including any complaints made in respect of such *permits*;

(e) any potential precautions or conditions which could be taken to prevent the emission of noise that is clearly audible and detrimental to the amenity of any surrounding:

(i) *residential premises* outside the permitted hours and in particular before 9.00am Saturday and 10.00am Sunday; and / or

(ii) non-residential premises outside the permitted hours and in particular at business critical times to any business operating from those premises;

(f) any issues of community safety and amenity;

(g) the need for the provision of reasonable notice to residents and occupiers of non-residential premises.

(7) *Council* must not grant a *permit* for a *builder* to carry out *building works* on a day that is an appointed public holiday under the *Public Holidays Act* 1993.

Application for out of hours permit

(8) An application for a *permit* under sub-clause (4) to conduct *building works* out of hours must be:

(a) made at least five (5) days prior to the commencement of the proposed out of hours *building works*; and

(b) in the approved form contained in the *Procedures and Protocols Manual*.

Emergency works may be conducted at any time

(9) Nothing in sub-clause (4) or (5) applies if the *building works* are made necessary by an emergency (including but not limited to an immediate need to repair following a storm or major climatic event).

Offence to cause unreasonable noise

(10) A person is guilty of an offence against this Local Law where unreasonable noise is made as a result of carrying out the *building works* detailed in this clause.

Penalty: 20 penalty units

(11) For the purpose of determining whether noise from *building works* on a *building site* is unreasonable, regard will be had to:

(a) the volume, intensity or duration; and

(b) the time, place and any other relevant circumstances in which the noise is emitted.

Power to inspect building sites

(12) Council may inspect a *building site* at any reasonable time.

Vehicle crossings to be used

(13) The *builder* must, in respect of the *building works*, ensure that no vehicular entry to the *land* takes place other than across the existing *vehicle crossing* or a *temporary vehicle crossing*.

Penalty: 20 penalty units

Management of stormwater

(14) Where any *building works* are being carried out on any *land*, the *builder* must ensure that the *building site* is developed and managed to minimise the risks of stormwater pollution, through the contamination of run-off by chemicals, sediments, *animal* wastes or gross pollutants in accordance with currently accepted best practice by adopting measures to:

(a) minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting *roads* or washed into the *stormwater system*; and

(b) prevent building cleanup, wash down or other wastes being discharged offsite or allowed to enter the *stormwater system*.

Penalty: 20 penalty units

Refuse facility to be provided

(15) Where any *building works* (other than *minor building works*) are being carried out on any *land*, the *builder* must:

(a) provide a *refuse facility* for the purpose of disposal of *builder's refuse*, and, provided the facility contains all *builder's refuse* on the *land* to the satisfaction of *Council*, its size, design and construction will be at the discretion of the *builder*;

(b) *place* the *refuse facility* on the *land* and keep it in place (except for such periods as are necessary to empty the *refuse facility*) for the *construction period*;

(c) not place the *refuse facility* on any *Council land* or *road* without a *permit*; and

(d) empty the *refuse facility* whenever full, and, if necessary, provide a replacement *refuse facility* during the emptying process.

Penalty: 20 penalty units

Refuse to be placed in refuse facility

(16) During *building works*, the *builder* must ensure that:

(a) all *builder's refuse* which requires containment is placed in the *refuse facility* referred to in sub-clause (15);

(b) the *builder's refuse* is not deposited in or on any *land* other than in accordance with sub-clause (15); and

(c) the *builder's refuse* is not deposited in or over any part of the *stormwater system*.

Penalty: 20 penalty units

Refuse to be removed following completion

(17) On any *land* where *building works* are being, or has been, carried out, the *builder* must remove and lawfully dispose of all *builder's refuse* on the *land*, including, without limiting the generality of the above, the *builders' refuse* in the *refuse facility* referred to in sub-clause (15), within seven (7) days of completion of the *construction period* or issue of an occupancy permit, whichever occurs last.

Penalty: 20 penalty units

Adjoining land not to be damaged

(18) A person who delivers materials to a *building site* or collects materials or waste from a *building site* must do so without causing damage to any adjoining *land*.

(19) If *Council* identifies any damage which appears to result from non-compliance with this Local Law, an *authorised officer*:

(d) may direct the responsible party to reinstate the damage within a specified time, in which case the responsible party must comply with such direction; and

(e) must issue the responsible party with a Notice to Comply requiring the damage to be reinstated, either at the time of the inspection or within a reasonable timeframe.

31A. Requirement for Fencing

Notice to Comply

(1) In addition to any requirements for managing amenity on *building sites*, *building works* or dangerous or unsightly *land* of the kind referred to in clause 57, an *authorised officer* may issue to the owner of the relevant *land* a Notice to Comply

requiring that temporary fencing be installed on the *land*, if the fencing is required to maintain the amenity of the area.

(2) In considering whether on to issue a Notice to Comply to fence, the *authorised officer* must have regard to:

(a) the risk to public safety; and

(b) the amenity of the area in which the *land* is located; and

(c) whether fencing will reduce potential risks associated with public safety or amenity.

32. Building Works on a Dwelling

Extended hours for owners and occupiers

(1) In addition to the hours specified in clause 31(4), the owner or occupier of a dwelling may carry out *building works* on that dwelling between the hours of:

(a) 7.00am and 8.00pm Mondays to Fridays;

(b) 9.00am to 6.00pm Saturdays;

(c) 9.00am to 6.00pm Sundays and Public Holidays

provided that no other person is engaged to carry out the building works for fee or reward and the person or persons carrying out the building works comply with or observe any direction, notice or order of the Council, any authorised officer or any public authority.

(2) Despite sub-clause (1), a person may carry out *building works* on a dwelling at times other than those specified provided that unreasonable noise does not occur.

Offence to cause unreasonable noise

(3) A person is guilty of an offence against this Local Law where unreasonable noise is made as a result of carrying out *building works* in this clause.

(4) For the purpose of determining whether noise from *building works* on a dwelling, referred to in sub-clause (1) and (2) is unreasonable, regard will be had to:

(a) the volume, intensity or duration of the noise; and

(b) the time, place and any other relevant circumstances in which the noise is emitted.

33. Protection of Council Assets

Report to be provided prior to commencing building works

(1) In addition to any notification required under clause 31, a *builder* must, at least 48 hours before *building works* commences or the delivery of any equipment or materials to the *land*, provide a report to *Council* of the existing condition of *Council assets* which are:

(a) adjacent to the *land* to which the building permit relates; or

(b) likely to be affected by the *building works* authorised by the building permit.

Penalty: 20 penalty units

Council to inspect assets after completion

(2) *Council* must as soon as is reasonably practical after receiving notice that an occupancy permit or a final certificate in relation to alterations to an existing *building* has been issued ensure that an inspection of *Council assets* is carried out.

Builder to repair assets affected

(3) The *builder* must repair to the satisfaction of *Council* any damaged *road* (including *carriageway*), channel, drain, *vehicle crossing* or other assets vested in *Council* adjacent to the *land* where the *building works* takes place or which is likely to be affected by the *building works* for which an *Asset Protection Permit* has been obtained.

Penalty: 20 penalty units

Council may carry out repairs

(4) If *Council* considers that *building works* have caused damage to *Council assets* it may repair the damage itself and deduct the cost of repairs from any *security bond* that has been paid in accordance with clause 24(4A).

(5) If the amount of the *security bond* is insufficient to cover the costs of repairs or if a *security bond* was not required to be paid, *Council* may give a notice under section 225 of the *Local Government Act* 1989 and recover the costs of repairs in accordance with that section.

Return of bond

(6) Subject to sub-clause (4), any money from the *security bond* that has not been used in covering the costs of repairs may be refunded to the person who lodged it.

34. General Requirements Applying to Industrial, Trade and Commercial Waste

Waste only to be collected between certain hours

(1) A person must not collect industrial, trade or commercial waste (including the collection of recyclable materials) other than between the following hours:

(a) 7.00 am to 8.00 pm Monday to Saturday; and

(b) 9.00 am to 8.00 pm Sunday and public holidays.

Penalty: 20 penalty units

Extended hours for waste collection outside designated areas

(2) A person who is not in an area *designated* by *Council* may collect industrial, trade or commercial waste (including the collection of recyclable materials) outside the hours specified in sub-clause (1) provided that the amenity of the area is not disturbed by unreasonable noise.

Unreasonable noise

(3) The collection of industrial, trade or commercial waste (including the collection of recyclable materials) is deemed to generate unreasonable noise if noise from the collection can be heard in a habitable room in any dwelling (regardless of whether any door or window giving access to that room is open).

Premises to have adequate waste management arrangements

(4) The occupier of a property must ensure that any *container* used for the storage of industrial, trade or commercial waste is:

(a) not kept on a *road* or *Council land* and is kept on the property for which the bin has been obtained unless the *Council* has approved, in writing, an alternative location;

(b) constructed of material to prevent leakage, and is water-tight and fly and vermin proof ;

(c) of a sufficient size to contain all waste generated on the property in between clearances;

(d) kept in a clean, sanitary and inoffensive condition; and

(e) emptied at least weekly or more regularly if the contents become offensive.

Penalty: 20 penalty units

(5) The occupier of any premises must ensure that any area where any container used for the storage of industrial, trade or commercial waste is kept is:

(a) maintained at all times in a clean, sanitary and inoffensive condition;

(b) adequately screened from adjoining properties; and

(c) adequately fenced or otherwise constructed so that access to the public is not possible.

Penalty: 20 penalty units

(6) Every waste hopper or recycling bin used for the collection of waste or recyclable material must display a notice indicating the type of waste or material which is permitted and stating that it is an offence to deposit any material contrary to the notice.

Penalty: 20 penalty units

35. Additional requirements applying to commercial premises

Commercial premises not to detrimentally affect amenity

(1) An owner or occupier of *commercial premises* must not detrimentally affect the amenity of the neighbourhood, whether through the emission of unreasonable noise or smell from the premises, activities conducted in the premises, the appearance of the premises or otherwise.

Penalty: 20 penalty units

(2) An owner of *commercial premises* must not allow the use of the premises to detrimentally affect the amenity of the neighbourhood or create a nuisance.

Penalty: 20 penalty units

(3) In considering whether noise emanating from *commercial premises* is unreasonable for the purposes of sub-clause (1), an *authorised officer* may have regard to the following:

(a) the likelihood of the noise causing disturbance or annoyance to others;

(b) the volume, intensity, or duration of the noise;

(c) the time and place of the noise;

(d) reasons why the noise is occurring; and

(e) any other relevant circumstances.

(4) In circumstances where an *authorised officer* is of the opinion that unreasonable noise has been allowed to emanate from *commercial premises*, the *authorised officer* may request, in writing, that the owner, occupier or the person in charge of the *commercial premises* provide an Amenity Management Plan within a specified time frame.

(5) An owner, occupier or person in charge of *commercial premises* to whom a request is made in writing under sub-clause (4) must comply with that request.

Penalty: 20 penalty units

(6) An owner, occupier or the person in charge of *commercial premises* must ensure compliance with the approved Amenity Management Plan referable to those *commercial premises* all times.

Penalty: 20 penalty units

Extended responsibility for commercial premises

(7) The owner or occupier of *commercial premises* must ensure that unreasonable noise is not caused by the patrons of the *commercial premises* or by any amplified music from the *commercial premises*.

(8) The cleanliness of the area immediately adjacent to the *commercial premises* is the responsibility of the owner or occupier of the *commercial premises* and any litter must be removed.

Council may require Waste Management Plan

(9) If required by the *Council* or by an *authorised officer*, the owner or occupier of *commercial premises* must submit a waste management plan (incorporating adequate waste management arrangements) to *Council* for approval, which approval may be given subject to such conditions as *Council* or an *authorised officer* thinks fit. The owner or occupier must ensure that the waste management plan is carried out in accordance with any such approval.

Deliveries not to cause nuisance

(10) If *residential premises* are impacted by noise from the delivery of goods to or collection of goods from *commercial premises*, then a person must not deliver goods to or collect goods from the *commercial premises*, other than between the following hours:

(a) 7.00 am to 10.00 pm Monday to Saturday; and

(b) 9.00 am to 10.00 pm Sunday and public holidays.

Penalty: 20 penalty units

(11) A person delivering any goods to *commercial premises* must not cause any nuisance or disturb the amenity of the area in which the *commercial premises* are located.

Penalty: 20 penalty units

(12) The delivery to *commercial premises* or collection from *commercial premises* of any goods is deemed to create a nuisance or disturb the amenity of the area if noise, including noise from ancillary motors or truck engines, from the delivery or collection can be heard in a habitable room in any dwelling (regardless of whether any door or window giving access to that room is open).

36. Domestic waste and recyclable materials

General obligations in respect of domestic waste

(1) An owner or occupier of *residential premises* must:

(a) *place* all domestic waste and recyclable material for collection in bins ready for collection on the days from time to time specified by *Council*;

(b) not use *Council* supplied bins for any other purpose except for domestic waste or recyclable material;

(c) *place* bins on the verge of the *vehicle crossing* or *road* abutting the premises or other location confirmed in writing by *Council* not earlier than 24 hours before the day of collection;

Penalty: 1 penalty unit

(d) ensure that any material that may cause a hazard (or a safety risk) is not *placed* in bins provided by *Council* for domestic waste or recycling;

(e) ensure that, if *Council* has notified occupiers of a green waste or hard garbage collection, the material to be collected (of the type of green waste or hard garbage) is left for collection in accordance with *Council's* instructions;

(f) ensure that once the waste has been collected by or on behalf of *Council*, the empty bins are returned to the premises as soon as practicable but within 24 hours from the collection;

(g) ensure that any waste from a *container* that has spilled onto the *road*, nature-strip or surrounding area before collection is removed as soon as practicable; and

(h) ensure that bins are maintained in a clean and tidy manner so that they do not cause a health threat or offence to any person.

(2) Sub-clause (1)(a) does not apply to material which is recycled on the premises in a manner which causes no nuisance to neighbours or kept on the premises for recycling in accordance with a *Council* sponsored recycling program.

(3) Sub-clause (1)(f) does not apply if the bin can be stored in a lane or other similar area, permission to store there is given by an *authorised officer* and the

placement of the bin does not cause an obstruction to vehicular or pedestrian traffic.

Storage area to be provided and utilised

(4) The owner of any flats or units must provide a clearly defined storage area for the storage of bins and every occupier must keep the bin allocated to the flat or unit in that defined storage area.

Penalty: 1 penalty unit

Domestic waste to be collected between certain hours

(5) A person must not collect domestic waste and recyclable materials unless:

(a) the collection is carried out only between the hours of:

(i) 6.30am – 8.00pm on Mondays to Saturdays; or

(ii) 9.00am – 8.00pm on Sundays; or

(iii) 6.30am – 8.00pm on Public Holidays; or

(b) the amenity of the area is not disturbed by unreasonable noise.

(6) For the purpose of determining whether the amenity of the area is disturbed by unreasonable noise, regard will be had to:

(a) the volume, intensity or duration of the noise; and

(b) the time, place and any other relevant circumstances in which the noise is emitted.

Care and control of domestic waste bins

(7) A bin issued to premises:

(a) is owned by *Council*; and

(b) must be kept and remain on the premises.

(8) If a bin is damaged, lost or stolen the occupier of the premises must notify *Council* as soon as possible in the manner required and may be required to pay the costs of replacement.

37. Audible Intruder Alarms

An owner or occupier of premises must not:

(1) install or cause to be installed; or

(2) retain or cause to be retained

and active on those premises any audible intruder alarm which emits a noise audible beyond the boundary of the premises which breaches the operating guidelines for audible intruder alarms specified in the Procedures and Protocols Manual.

Penalty: 10 penalty units

DIVISION 2 – PUBLIC SAFETY AND THE PROTECTION OF ASSETS

38. The location of trees, plants and signs

A person must not plant, locate or allow to be located a tree, plant, sign or other similar object in a way that it is obstructing or interfering with pedestrian or vehicular traffic by:

(1) overhanging any *footpath* or other part of the *road* used by pedestrians to any extent up to a height of 2.1 metres or so that it gets in the way of pedestrians or is likely to cause injury or damage; or

(2) extending over any part of the *road* in such a way that it:

(a) obstructs the view between *vehicles* at an intersection; or

(b) obstructs the view between *vehicles* and pedestrians; or

(c) obstructs any *Council assets* including drains; or

(d) obscures a traffic control item from an approaching *vehicle* or pedestrian; or

(e) obscures street lighting; or

(f) constitutes a danger to *vehicles* or pedestrians or compromises the safe and convenient use of the *road*.

Penalty: 5 penalty units

39. Display of property numbers

Where Council has allocated street numbers to a property the owner or occupier of that property must ensure that the number allocated is clearly displayed by ensuring that it can be clearly read in normal lighting conditions from the road immediately adjacent to the front boundary.

Penalty: 2 penalty units

40. Vehicle crossings

Permit requirement

(1) A *permit* is required to construct a temporary or permanent *vehicle crossing*.

Penalty: 10 penalty units

Power to require construction or repair vehicle crossing

(2) *Council* or an *authorised officer* may by notice in writing require:

(a) the construction of a temporary or permanent *vehicle crossing*; or

(b) the repair or reconstruction of a *vehicle crossing*,

by the owner or occupier of any adjacent *land*.

Land to be accessed by vehicle crossings

(3) A person must not access *land* in a *vehicle* other than via a temporary or permanent *vehicle crossing*.

Penalty: 10 penalty units

Power to require removal of vehicle crossing

(4) *Council* or an *authorised officer* may by notice in writing require the removal of any *vehicle crossing* and the reinstatement of any kerb, drain, *footpath*, nature strip or other part of a *road*, if, in the opinion of *Council* or an *authorised officer*, the *vehicle crossing*:

(a) is redundant,

(b) has been constructed in breach of any provision of this clause or a permit;

(c) has not been properly maintained; or

(d) is in a state of disrepair.

Owner / occupier to comply with notice

(5) An owner or occupier of *land* to whom a notice in writing is given under sub-clause (2) or (4) must comply with that notice.

Penalty: 10 penalty units

(6) Any work in respect of a *vehicle crossing* must be performed to the satisfaction of *Council* or an *authorised officer*.

Penalty: 10 penalty units

41. Residential parking

Permit requirement

(1) A residential parking permit is required to leave a vehicle standing in a residential parking area.

Application to be in approved form

(2) An application for a *residential parking permit* must be in the approved form contained in the *Parking Permit Policy*.

Criteria for grant of permit

(3) Residential parking permits will be granted in accordance with the Parking Permit Policy.

Residents to comply with permits

(4) A person who has a *residential parking permit* must:

(a) comply with any conditions of the *residential parking permit*; and

(b) comply with any requirements of the *Parking Permit Policy*.

Penalty: 4 penalty units

42. Grand Prix parking

Permit Requirement during Grand Prix

(1) During the period of the Australian Grand Prix, a *Grand Prix parking permit* is required to leave a *vehicle* standing in the *Local Access Only Zone* or the *Middle Park Area*.

Corporation Council's agent for permits

(2) *Council* authorises the Australian Grand Prix Corporation to be its agent for the purpose of issuing *Grand Prix parking permits* under sub-clause (1).

Corporation not to apply for permits

(3) The Australian Grand Prix Corporation is not eligible to make any applications for a *Grand Prix parking permit* for itself or its employees or agents.

Permits to be issued in accordance with policy

(4) Grand Prix parking permits will be granted in accordance with the Parking Permit Policy

No fee payable for permit

(5) No fee is payable for a *Grand Prix parking permit*.

Permit holder's obligations

(6) A Grand Prix parking permit holder:

(a) must not assign, transfer or encumber his or her *permit*; and

(b) must ensure that:

(i) the *permit* is fixed to the lower interior of the passenger side corner of the front windscreen of the relevant *vehicle* or in any other manner specified in the *permit*; and

(ii) all printed information on the *permit* is capable of being read by any person standing beside the *vehicle*.

Exemptions

(7) The following *vehicles* are exempt from the requirements under this clause:

(a) bicycles;

(b) coaches and Public Transport Development Authority buses when parked in clearly designated bus parking areas;

(c) taxis or stretch limousines providing taxi services when parked in a clearly designated taxi rank;

(d) *vehicles* owned by *Council*, Public Transport Development Authority or the Roads Corporation;

(e) Police, Ambulance, Fire Brigade and State Emergency Service *vehicles*;

(f) *vehicles* carrying a registered doctor or a nurse who is on duty and required to attend premises within the *Local Access Only Zone*;

(g) clearly marked courier *vehicles* when parked for the purpose of collecting or delivering any object; and

(h) motorcycles.

Power to exempt persons

(8) *Council* or a member of Victoria Police may exempt any person from the operation of this clause or any of the requirements contained in it.

43. Parking offences

Operator onus offences

(1) The offences contained in this clause are operator onus offences for the purposes of Part 6AA of the *Road Safety Act* 1986.

Note: Readers should refer to Part 6AA of the *Road Safety Act* for more information about operator onus offences.

Offence to park vehicle on reserve or foreshore

(2) A person must not park a *vehicle* or leave a *vehicle* standing on any *Council land* that is a *reserve* or on the *foreshore*.

Penalty: 4 penalty units

(3) Sub-clause (2) does not apply to an *authorised officer* or a person acting on behalf of *Council*, whether a member of staff or otherwise, in the course of carrying out his or her authorised activities.

Offence to leave unregistered vehicle or trailer in public place

(4) A person must not park, or leave standing, an *unregistered vehicle* or *trailer* in a *public place*.

Penalty: 4 penalty units

44. Significant Trees

Permit requirement

(1) A *permit* is required to:

(a) destroy, damage or remove or allow to be destroyed, damaged or removed; or

(b) cut, trim, lop or prune or allow to be cut, trimmed, lopped or pruned,

a significant tree or palm.

Penalty: 20 penalty units

Exemption from permit requirement

(2) The requirement to obtain a *permit* under sub-clause (1) does not apply:

(a) where a person cuts, trims or prunes a *significant tree or palm* to comply with clause 38 of this Local Law;

(b) where an adjacent *land* owner removes branches which are overhanging that adjacent *land*.

(3) For the avoidance of doubt, the requirement to obtain a permit under this Local Law is additional to any requirement to obtain any necessary planning permission under the *Planning Scheme*.

Criteria for grant of a permit

(4) In deciding whether to grant a *permit* under sub-clause (1), *Council* must have regard to:

(a) whether it is necessary to obtain an arborist's report;

(b) whether the tree is included on any register;

(c) the reasons for the request;

(d) the impact on the amenity and the safety of the area;

(e) any proposed replacement plantings; and

(f) any other matter considered relevant by *Council*.

45. Use of Council Reserves

(1) A *permit* is required to use a *Council Reserve* for the purpose of organised training or conducting organised sporting activities.

Penalty: 10 penalty units

46. Maintenance of stormwater pipes

An owner of *land* must not allow:

(1) a stormwater pipe to accumulate leaves, dirt or other matter so that it causes a *Council* drain to become obstructed; or

(2) a stormwater drain (including the legal point of discharge) servicing the *land* to be in disrepair.

Penalty: 5 penalty units

46A. Ground table water management

(1) The owner of any *land* that is developed and on which a groundwater pump and filtration system to pump filtered groundwater into the stormwater system operates must provide *Council*, on request, evidence that the pump and filtration system have been serviced within the previous 12 months and are operating in accordance with relevant standards.

(2) An *authorised officer* may direct the owner of *land* to arrange a suitably qualified person to service and test the ground water pump and filtration system, if it has not been serviced within the previous 12 months.

(3) A failure to comply with a request under sub-clause (1) or a direction under sub-clause (2) is an offence.

Penalty: 10 penalty units

PART 4 - ACTIVITIES AND USES NOT PERMITTED

This Part contains prohibitions on a number of activities and uses of land. Any person who breaches any provision may be guilty of an offence and liable to the penalty which is indicated.

47. Trading Sites

Where Council has designated trading areas and has entered into an agreement with a person to trade from a designated site, no other person may trade from that site whether or not that person has a permit from Council.

Penalty: 20 penalty units

48. Repairing Vehicles

A person must not dismantle, paint, carry out maintenance or repair a vehicle on a road except where it is necessary to enable the vehicle to be removed or so that it can be driven away within one hour of a request by an authorised officer.

Penalty: 20 penalty units

49. Interfering with Council Assets

(1) A person must not interfere with or use *Council assets* in such a way that:

(a) damage or detriment could be caused to *Council assets*; or

(b) any other person could be injured or suffer loss as a result of that interference or use.

Penalty: 20 penalty units

(2) Notwithstanding sub-clause (1), a person may:

(a) plant vegetation on; or

(b) otherwise modify the appearance of

the nature strip immediately outside land which they occupy if such planting or modification:

(c) complies with the Nature Strip Guidelines; or

(d) is approved by an authorised officer.

50. Damage from Adjoining Properties

A person must not allow any tree or plant on land owned or occupied by him or her to cause damage to or interfere with a road or Council land or any drain vested in or under the control of Council.

Penalty: 5 penalty units

51. Repair Any Damage

(1) An *authorised officer* may direct a person who has damaged or interfered with *Council assets* contrary to clause 49 or 50 to repair any damage.

(2) A person to whom a direction is given under sub-clause (1) must comply with that direction.

Penalty: 20 penalty units

52. Behaviour on Council Land

A person must not behave on Council land:

(1) in a manner which causes interference with the quiet enjoyment by any other person using the *Council land* or living in close proximity to the *Council land*;

(2) contrary to any conditions or signs that contain conditions applying to the use of the *Council land*; or

(3) contrary to any direction by an *authorised officer*.

Penalty: 2 penalty units

(4) For the avoidance of doubt, a person does not interfere with the quiet enjoyment of other persons simply by expressing political or other opinions which may cause offence.

53. Camping on Council Land

(1) A person must not camp on any *Council land* or in any *public place* in a *vehicle*, tent, caravan or any other type of temporary or provisional form of accommodation.

Penalty: 2 penalty units

(2) A person is not guilty of an offence under sub-clause (1) where that person establishes that he or she:

(a) is homeless or in need of secure accommodation;

(b) is homeless or is in need or secure accommodation; or

(c) has complex needs or is in the need of additional assistance because of mental or physical disability or illness

54. Consumption of liquor

Offence to consume or possess liquor in an unsealed container

(1) A person must not:

(a) in or at a *public place*; or

(b) in or on a *vehicle* which is on or at a *public place*

consume any liquor or have in his or her possession or control any liquor other than liquor in a sealed container in that part of the municipal district designated by Council.

Penalty: 10 penalty units

Offence to possess liquor in a sealed container

(2) Without limiting sub-clause (1), a person must not:

(a) in or at a *public place*; or

(b) in or on a *vehicle* which is on or at a *public place*

possess liquor in a sealed container in that part of the municipal district designated by Council, except where the possession is for the transport of liquor to premises referred to in sub-clause (3).

Penalty: 10 penalty units

Exceptions

(3) Sub-clause (1) does not apply to a person:

(a) taking part in a *special event* in respect of which the *Council* has granted a *permit* for persons to consume liquor or to have in their possession or control any liquor other than liquor in a sealed container;

(b) within authorised premises or licensed premises under the *Liquor Control Reform Act* 1998 or any subsequent legislation relating to the serving and consumption of liquor; or

(c) who has been granted a *permit* to take liquor into an area *designated* by *Council*.

Authorised officer may issue directions

(4) Where an *authorised officer* believes on reasonable grounds that a person is contravening or has contravened sub-clause (1), the *authorised officer* may direct the person to seal any container or dispose of the contents of any unsealed container.

Offence to fail to comply with a direction

(5) A person to whom a direction is given under sub-clause (4) must comply with that direction.

Penalty: 10 penalty units

55. No Smoking in Smoke Free Areas

Smoking prohibited

(1) A person must not *smoke* a tobacco product in a *smoke free area*.

Penalty: 10 penalty units

Authorised officer may issue directions

(2) Where an *authorised officer* believes on reasonable grounds that a person is contravening or has contravened sub-clause (1), the *authorised officer* may direct the person to extinguish and then dispose of the *tobacco product*.

Offence to fail to comply with a direction

(3) A person to whom a direction is given under sub-clause (2) must comply with that direction.

Penalty: 10 penalty units

Council may designate smoke free areas

(4) *Council* may *designate* any area within the municipality to be a *smoke free area*.

(4a) *Council* will not *designate* any footpath trading zone as a *smoke free area*, unless a request to consider designating a footpath trading zone as being smoke free is made by the trader permitted to use the footpath trading zone.

Criteria to be considered in designating smoke free areas

(5) When determining whether to *designate* a *smoke free area*, *Council* must have regard to the following factors:

(a) the size of the proposed *smoke free area*;

(b) the opinions of any person who is the owner or occupier of any part of the proposed *smoke free area*;

(c) the proximity of the proposed *smoke free area* to a *public place*;

(d) the extent and outcome of any public consultation on the proposed *smoke free area*;

(e) any benefits to the community which would be achieved by *Council* designating the proposed *smoke free area*;

(f) any detriment to the community which would be caused by *Council* designating the proposed *smoke free area*; and

(g) any other matter *Council* considers relevant.

Power to erect signs

(6) *Council* or an *authorised officer* must erect, or cause to be erected, an *acceptable no smoking sign* in every designated *smoke free area*.

56. Use of boats and other watercraft

(1) A person must not take or locate a sailboard, *personal watercraft*, yacht, boat or similar vessel on to the *beach* other than through an access lane, launching ramp, slipway or *designated* area.

Penalty: 2 penalty units

(2) Non-motorised paddle vessels, including kayaks, canoes and stand up paddle boards, may be taken onto the *beach* from *foreshore waters* in any area which is adjacent to a "5 knot shared boating zone".

(3) *Council* may *designate* areas within which *personal watercraft* may be launched or transferred from *foreshore waters* to a mode of *land* transport.

(4) Sub-clause (1) does not apply to registered sailing and lifesaving clubs providing training, competition and/or service to the community.

57. Dangerous or unsightly land

(1) An owner or occupier of *land* must not allow that *land* to be kept in a manner which is dangerous or unsightly.

Penalty: 10 penalty units

(2) In determining whether *land* is dangerous or unsightly, an *authorised officer* may have regard to whether:

(a) there are any materials or substances on the *land* that are kept in such a way that they may be flammable or explosive;

(b) the way in which the *land* is kept or items are stored on the *land* may constitute or contribute to it being a health hazard;

(c) the condition of the *land*, or any part of it, may promote the presence of vermin and pests;

(d) the appearance of the *land* is one of neglect and is out of character with other *land* in the vicinity; or

(e) a combination of any of the above factors renders the *land* to be dangerous or unsightly.

(3) Without limiting sub-clause (1), the owner or the occupier of *land* on which is located any building or other structure which is unoccupied, unfit for occupation or normal use or not occupied most of the time:

(a) must not permit any building or other structure to become dilapidated or further dilapidated;

(b) must take all reasonable steps to secure the building or other structure and the *land* on which it is built from unauthorised access;

(c) must maintain any building or other structure in a state of good repair and appearance, including undertaking temporary repairs as required to ensure on-site safety and security and to avoid the appearance of neglect out of character with other premises in the vicinity;

(d) must not allow any graffiti to remain on any building, wall, fence, post or other structure or object erected on that *land*; and

(e) will commit a new offence under this Local Law for every month any breach of this sub-clause continues unless effective works have been undertaken to remedy any breach.

Penalty: 10 penalty units

(4) For the purposes of sub clause (3), a building is deemed to be dilapidated if the exterior of the building is in a state of disrepair and has been damaged or defaced so as to:

(a) affect the visual amenity of the building or *land* on which it is built; or

(b) cause the building to be out of conformity with the general standard of appearance of other buildings in the vicinity of the *land*;

(5) A person is not guilty of an offence under sub-clause (1) or (3) where that person is unable to remove the source of the danger or carry out the required maintenance and repairs due to age, illness or disability.

(6) Without limiting sub-clause (1), the owner or occupier of land on which a *clothing recycling bin* is located must ensure that the area surrounding the *clothing recycling bin*:

(a) is tidy and neat in appearance; and

(b) does not detract from the amenity of the area in which the land is located.

Penalty: 10 penalty units

58. Incinerators, fires and open air burning

Open air fires / incinerators not to be lit

(1) A person must not light or allow any fire to be lit in the open air or in an *incinerator* on any *land*.

Penalty: 10 penalty units

Barbecues excepted

(2) Subject to the requirements of any other legislation, the prohibition in sub-clause (1) does not apply to a person who uses a barbecue for the purposes of cooking food.

(3) For the purpose of sub-clause (2) a barbecue is a device specifically designed and constructed for the purpose of cooking.

59. Animal Litter

Animal litter to be collected

(1) The owner or person for the time being in charge of an *animal* must immediately collect and remove all of the excrement left by the *animal* on a *road* or *Council land* or in a *public place*.

Penalty: 4 penalty units

(2) The owner or person for the time being in charge of an *animal* must carry a receptacle, dispenser, bag or other similar device in which to place the excrement of the *animal* when with the *animal* on a *road*, on *Council land* or in a *public place*.

Penalty: 4 penalty units

60. Shopping Trolleys

(1) The proprietor of any premises which makes shopping trolleys available for use must ensure that:

(a) from 1 July 2018 onwards, each shopping trolley has a coin operated lock or a perimeter constraint system; and

(b) each shopping trolley clearly contains:

(i) the name and address of the business operating from the premises; and

(ii) a message to customers about their responsibility to return the shopping trolley to a recognised collection point.

Penalty: 20 penalty units

(2) The proprietor of any premises which makes shopping trolleys available for use must ensure that a shopping trolley is not left on any *road* or *Council land* unless it is *land* which *Council* has set aside for that purpose.

Penalty: 20 penalty units

(3) Nothing in sub-clause (1)(a) applies to a proprietor of premises which makes less than 30 shopping trolleys available for use.

61. Horse Riding on Council Land

A *permit* is required to ride or lead a horse on *Council land* or in *foreshore waters*.

Penalty: 10 penalty units

62. Glass and Sharp Object on Beach

A person must not place or leave any glass or sharp object on a beach so as to create a:

(a) hazard; or

(b) danger,

to any person on the beach.

Penalty: 5 penalty units

62A Glass Free Areas

Note: Whether at an event in a park at night, or at a crowded public gathering, or where children play on a beach, broken glass can be dangerous. *Council* therefore may, on occasion, ban glass containers from some locations by designating glass free areas.

(1) For the purposes of sub-clause (2) "public holiday" means any day specified as a public holiday in the *Public Holidays Act* 1993 or gazetted in the *Victoria Government Gazette* as a public holiday.

(2) A person must not, without a *permit*, take any glass container, bottle, receptacle, vessel or like product:

(a) onto any *beach* within the municipal district, at any time on a public holiday or between 8pm on 30 December and midnight on 31 December or between:

(i) the commencement of; and

(ii) 9am on

2 January; or

(b) into or onto any other area *designated by Council* from time to time to be glass free.

Penalty: 20 penalty units

PART 5 - ADMINISTRATION AND ENFORCEMENT

Part 5 contains provisions setting out how the Local Law will be administered and enforced.

DIVISION 1 - PERMITS, FEES AND DELEGATIONS

63. Applying for a permit

(1) A person who wishes to apply for a *permit* may do so by:

(a) lodging with *Council* an application that contains any information required by this Local Law and the *Procedures and Protocols Manual*; and

(b) paying to *Council* the appropriate fee.

(2) An applicant may be requested to provide additional information before an application for a *permit* or for exemption is dealt with.

(3) *Council* may require a person making an application for a *permit* to give public notice which will entitle any person to make a submission and to be heard.

64. Fees and Charges

(1) *Council* may, from time to time, by resolution determine fees and charges for the purposes of this Local Law.

(2) In determining any fees and charges *Council* may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, if it considers it is appropriate to do so.

(3) *Council* may waive, reduce or alter a fee or charge with or without conditions.

(4) *Council's* power to determine fees or charges for the purposes of this Local Law does not apply to any lease that may be entered into to occupy a *market site* regulated by this Local Law.

65. Issue of permits

Where Council receives an application for a permit, Council may:

(1) issue a *permit* in the approved form contained in the *Procedures and Protocols Manual* with or without conditions; or

(2) refuse to issue a *permit*.

66. Duration of permits

(1) Subject to clause 23(3), a *permit* is in force until the expiry date indicated on the *permit*, unless it is cancelled before the expiry date.

(2) If no expiry date is indicated on the *permit*, the *permit* expires on 30 June next after the day on which it is issued.

67. Conditional permits

Power to impose conditions

(1) A *permit* may be issued which contains conditions considered to be appropriate in the circumstances including (but not limited to) the following:

(a) the payment of a fee or charge;

(b) the payment of a *security deposit*, bond or guarantee to *Council* to secure the proper performance of conditions on a *permit* or to rectify any damage caused to *Council assets* as a result of the use or activity allowed by the *permit*;

(c) a time limit to be applied specifying the duration, commencement or completion date;

(d) that the applicant be insured against the risk and to provide a written indemnification of *Council* against liability arising from the activity or use;

(e) the rectification, remedying or restoration of a situation or circumstance;

(f) where the applicant is not the owner of the subject property, the consent of the owner; and

(g) the granting of some other *permit* or authorisation.

Standard conditions presumptively imposed

(2) Unless *Council* decides otherwise, a *permit* must contain the *standard conditions* contained in any relevant *incorporated document*.

Conditions to be set out in permit

(3) The conditions of a *permit* must be set out in the *permit*.

Power to amend conditions

(4) *Council* may, during the currency of a *permit*, amend the conditions of a *permit* if it considers it to be appropriate to do so.

(5) In considering whether it is appropriate to amend the conditions on the permit, *Council* must have regard to:

(a) the purposes for which the conditions were imposed;

(b) whether those purposes are adequately achieved by the current conditions;

(c) the impact of the proposed amendment on the permit holder and any relevant third parties; and

(d) any other relevant matter.

Process to be followed in amending conditions

(6) If *Council* proposes to amend the conditions on a *permit*, it must:

(a) give the *permit* holder an opportunity to make submissions on whether the amendment should be made; and

(b) take into account those submissions in deciding whether to amendment the *permit*.

68. Cancellation of permit

Power to cancel permits

(1) *Council* may cancel a *permit* if it considers that:

(a) there has been a serious or ongoing breach of the conditions of the *permit*;

(b) a Notice to Comply has been issued, but not complied with within seven days after the time specified in the Notice to Comply;

(c) there was a significant error or misrepresentation in the application for the *permit*; or

(d) in the circumstances, the *permit* should be cancelled.

Process to be followed in cancelling permits

(2) If *Council* proposes to cancel a *permit*, it must:

(a) give the *permit* holder an opportunity to make submissions on whether the cancellation should occur; and

(b) take into account those submissions in deciding whether to cancel the *permit*.

(3) If a *permit* holder is not the owner of the *land* and the owner's consent was required to be given to the application for the *permit*, the owner must be notified of any Notice to Comply and of the reason why it has been served.

69. Correction of permits

Power to make corrections

(1) *Council* may correct a *permit* in relation to:

(a) an unintentional error or an omission; or

(b) an evident material miscalculation or an evident material mistake of description of a person, thing or property.

Process to be followed in making corrections

(2) If *Council* proposes to correct a *permit*, it must:

(a) give the *permit* holder an opportunity to make submissions on whether the correction should be made; and

(b) take into account those submissions in deciding whether to correct the *permit*.

(3) If the *permit* holder is not the owner of the *land* and the owner's consent was required to be given to the application for the *permit*, the owner must be notified of any correction to a *permit*.

70. Registers

(1) *Council* must maintain a record of *permits*, including details of corrections and cancellations.

(2) *Council* must maintain a register of determinations made and of guidelines or procedures prepared for the purposes of this Local Law.

(3) *Council* must ensure that the registers are available for public inspection at the office of *Council* during normal business hours.

71. Exemptions

(1) *Council* may by written notice exempt any person or class of persons from the requirement to have a *permit*, either generally or at specified times.

(2) In considering whether to grant an exemption under this clause, *Council* will have regard to:

(a) the reasons for which the exemption is sought;

(b) the period for which the exemption is sought;

(c) whether it would be reasonable, in all the circumstances, to expect the applicant for an exemption to apply for a *permit*;

(d) whether the grant of the exemption would be consistent with the purposes of this Local Law;

(e) any benefits or detriments that might arise from the grant of the exemption; and

(f) any other relevant matter.

An exemption may be granted subject to conditions.

(3) A person must comply with the conditions of an exemption.

(4) An exemption may be amended, cancelled or corrected as if it were a *permit*.

72. Offences

A person who makes a false representation or declaration (whether oral or in writing), or who intentionally omits relevant information in an application for a permit or exemption is guilty of an offence.

Penalty: 10 penalty units

73. Delegations

(1) In accordance with section 114 of the *Local Government Act 1989*, *Council* hereby delegates to those persons listed under Part 1 of the *Procedures and Protocols Manual* and to any person acting for these persons, all the powers, discretions, authorities and considerations of *Council* under this Local Law including powers, discretions and authority to issue or refuse *permits*, fix conditions and durations relevant to *permits*, cancel *permits*, require additional information, apply guidelines or policies of *Council*, waive the need for any *permit*, waive, fix or reduce fees or charges, *designate* areas or to do any act, matter or thing necessary or incidental to the exercise of any function or power by *Council*.

DIVISION 2 - ENFORCEMENT

74. Compliance with directions

A person must comply with any reasonable direction or instruction of an authorised officer, member of the Police Force or emergency service when requested to do so in urgent circumstances or for public safety reasons whether or not a person has a permit under this Local Law.

Penalty: 5 penalty units

75. Power of authorised officer

An authorised officer may, on behalf of Council, issue a warning, a Notice to Comply and an infringement notice on the person who is breaching the Local Law and commence legal proceedings and may impound items, goods or equipment in relation to a breach of the Local Law.

76. Notices to Comply

(1) A Notice to Comply must include the information contained in the *Procedures and Protocols Manual*, and state:

(a) the nature of any breach of the Local Law; and

(b) the time and date by which the breach must be remedied.

(2) The time required by a Notice to Comply must be reasonable in the circumstances having regard to:

(a) the amount of work involved; and

(b) the degree of difficulty; and

(c) the availability of necessary materials or other necessary items; and

(d) climatic conditions; and

(e) the degree of risk or potential risk; and

(f) any other relevant factor.

77. Failure to comply with a Notice to Comply

(a) A person who fails to comply with a Notice to Comply served on that person is guilty of an offence.

Penalty: 20 penalty units

Note: Failure to comply with a Notice to Comply may also result in the revocation of a relevant *permit* under clause 67.

78. Power of authorised officers to act in urgent circumstances

(1) In urgent circumstances arising as a result of a failure to comply with this Local Law:

(a) an *authorised officer* may take action to remove, remedy or rectify a situation without first serving a Notice to Comply if:

(i) the *authorised officer* considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a notice, may place a person, *animal*, property or thing at risk or in danger; and

(ii) wherever practicable, a *senior officer* is given prior notice of the proposed action; or

(b) an *authorised officer* may take action to remove, remedy or rectify a situation where a Notice to Comply has been served on a person and that person has not complied with the notice if:

(i) the *authorised officer* considers the circumstances or situation to be sufficiently urgent and the non-compliance with the notice may place a person, *animal*, property or thing at risk or in danger; and

(ii) wherever practicable, a senior officer is given prior notice of the proposed action.

(2) In deciding whether circumstances are urgent, an *authorised officer* must take into consideration, to the extent relevant:

(a) whether it is practicable to contact:

(i) the person by whose default, permission of sufferance the situation has arisen; or

(ii) the owner or the occupier of the premises or property affected; and

(b) whether there is an urgent risk or threat to public health, public safety, the environment or *animal* welfare.

(3) The action taken by an *authorised officer* under sub-clause (1) must not extend beyond what is necessary to cause the immediate abatement of or minimise the risk or danger involved.

(4) An *authorised officer* who takes action under sub-clause (1) must ensure that, as soon as practicable:

(a) details of the circumstances and remedying action are forwarded to the person on whose behalf the action was taken; and

(b) a report of the action taken is submitted to the *Chief Executive Officer* or a *senior officer* to whom the *authorised officer* reports.

79. Power of authorised officers to impound

(1) Where a person owning or responsible for items, goods and equipment has ignored a request from an *authorised officer* to remove them, the items, goods and equipment may be removed and impounded.

(2) If an *authorised officer* has impounded anything in accordance with this Local Law, *Council* may refuse to release it until the *appropriate fee* or charge for its release has been paid to *Council*.

(3) As soon as it is reasonably practicable to do so, an *authorised officer* must serve a Notice of Impoundment, which includes the information contained in the

Procedures and Protocols Manual, on the owner or person responsible for the impounded item setting out the fees and charges payable and time by which the item(s) must be retrieved.

(4) If, after the time required in a Notice of Impoundment, an impounded item is not retrieved, an *authorised officer* may take action to dispose of the impounded item according to the following principles:

(c) where the item has no saleable value, it may be disposed of in the most economical way; and

(d) where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in paragraph (a); and

(e) where the owner has advised *Council* in writing that *Council* may dispose of the goods because he or she does not intend to retrieve them, *Council* may dispose of them by the method identified in either paragraph (a) or (b).

(5) When the identity or whereabouts of the owner or person responsible for the impounded item is unknown, the *authorised officer* must take reasonable steps to ascertain the identity or whereabouts of that person and may proceed to dispose of the impounded item in accordance with sub-clause (4) once he or she is satisfied that all reasonable efforts have been made to contact the owner or person responsible for the impounded item.

(6) Any proceeds from the disposal of impounded items under this Local Law must be paid to the owner or to the person who, in the opinion of *Council*, appears to be authorised to receive the money except for the reasonable costs incurred by *Council* in the administration of this Local Law.

(7) If a person described in sub-clause (6) cannot be identified or located and the money is held by *Council* for 12 months, *Council* must comply with requirements of the *Unclaimed Money Act* 2008.

80. Infringement Notices

(1) As an alternative to a prosecution, an *authorised officer* may issue an infringement notice to any person committing an offence against this Local Law.

(2) The fixed penalty in respect of an offence for which an infringement is issued is the amount set out in Schedule 1 or if no amount is set out two (2) penalty units.

81. Penalties for continuing offences

A person who after conviction by a Court:

(1) continues to commit the same offence against the Local Law is liable to a penalty not exceeding 2 penalty units or each day after the conviction that the contravention continues; and

(2) commits a subsequent offence against the Local Law is liable to a penalty not exceeding 20 penalty units.

PART 6 Schedule 1 - Penalties Fixed for Infringements

Clause	Offence	Penalty Units
9(1)	Failing to obtain a *permit*	10
9(2)	Failing to comply with requirements, limitations or conditions of a *permit* or *incorporated document*	10
10(1)	Failing to obtain a *permit* to place an object on the footpath	10
10(5)	Failure to affix a sticker to window of premises or sign	2
10(7)	Failure to comply with the *Footpath Trading Guidelines*	10
11(4)	Placing *advertising signs* contrary to Local Law	10
12(1) and 13(1)	*Itinerant trading*, whether house to house or otherwise, without a *permit*	2.5
14(1)	Occupation of a *road* without a permit	10
15(1)	Conducting *special events* without a *permit*	10
16(1)	Holding a *street party* without consent	10
17(1)	Conducting a relevant activity in the *St Kilda Precinct* on St Kilda Festival day without a *permit*	10
18(1)	Failing to obtain a *permit* for filming on a *road* or *Council land*.	10
19(1)	*Busking* or fundraising or conducting promotional activities or conducting a street stall without a *permit* or in breach of conditions of a *permit*.	5
20(1)	*Failing to obtain a permit to place a bulk rubbish container* on a *road* or *Council land*.	2.5
21(1)	Occupying *market site* without a *permit* or failing to comply with applicable conditions or requirements of a *permit*.	5
22(1)	Connecting into *Council* drain	5
23(1)	Keeping of excess *animals* or birds without a *permit* or failing to comply with conditions or requirements	5
23(5)	Keeping rooster on *residential premises*	5
24(1)	Failing to obtain an *Asset Protection Permit*	10
25(1)	Placing *clothing recycling bin* on *Council land* without a *permit*	2.5
25(2)	Failing to comply with conditions and requirements of a *permit*	2.5

Attachment 8 - Port Phillip - Local-law-number-1-community-amenity

Clause	Offence	Penalty Units
26(1) and 26(2)	Conducting *outdoor commercial recreational activities* without a *permit* or failing to produce a *permit* upon request	5
27(1)	Taking off or landing in a hot air balloon or skydiving without a *permit*	2.5
28	Placing or allowing inflatable sign, display or like object on *foreshore* or *beach* without a *permit*	2.5
29	Discharging fireworks from *Council land* without a permit	2.5
29A	Keeping or allowing to be kept *heavy vehicle* on *residential premises* without a permit	10
31(1), 31(2), 31(3), 31(4), 31(5), 31(13), 31(14), 31(15), 31(16) and 31(17)	Failing to comply with requirements applying to *building sites*	10
31(10)	Causing unreasonable noise from *building sites*	10
31(18)	Delivering to a *building site* in a manner causing damage	2.5
32(1)	Performing *building works* on a dwelling contrary to requirements	2.5
32(3)	*Building works* on a dwelling causing unreasonable noise	2.5
33(1)	Failing to provide the report of the condition of Council assets 48 hours prior to commencing works	10
33(3)	Failing to repair damaged asset	10
34(1) and 34(4)	Failing to comply with requirements applicable to industrial trade and commercial waste	10
35(1), 35(2), 35(5), 35(6), 35(10) and 35(11)	Failing to comply with requirements applying to *commercial premises*	10
36(1) and 36(4)	Failing to comply with requirements applicable to domestic waste and recyclable materials	0.5

Attachment 8 - Port Phillip - Local-law-number-1-community-amenity

Clause	Offence	Penalty Units
37	Failing to observe operating requirements relating to *audible intruder alarms*	5
38	Failing to comply with requirements applicable to trees, plants and signs	2.5
39	Failing to adequately display property numbers	1
40(1)	Failing to obtain a *permit* to construct a *temporary vehicle crossing* or permanent *vehicle crossing*	5
40(3)	Accessing *land* other than via *vehicle crossing*	5
40(5)	Failing to comply with notice	5
40(6)	Failing to perform work in respect of a *vehicle crossing* to the satisfaction of an *authorised officer*.	5
41(4)	Failing to comply with requirements applying to *residential parking permits*	1
43(2)	Parking a *vehicle* or *trailer* on a *reserve* or *foreshore*	1
43(4)	Parking an *unregistered vehicle* or *trailer* in a *public place*	1
44(1)	Failing to obtain consent to remove or prune or lop a *significant tree or palm*	10
45	Organised training or sporting activity in a *reserve without a permit*	5
46(1)	Allowing a stormwater pipe to become obstructed	2.5
46(2)	Allowing a stormwater drain to be in disrepair	2.5
46A(3)	Failing to comply with either a request under clause 46A(1) or a direction under clause 46A(2)	2.5
47	Trading from an unavailable site	10
48	Repairing and maintaining *vehicles* on a *road*	10
49	Interfering with *Council assets*	10
50	Damaging *roads* or *Council land* from adjoining property	2
51(2)	Failing to comply with direction to repair damage	10
52	Behaving on *Council land* contrary to Local Law	1
54(1)	Consumption or possession of liquor contrary to Local Law	2
54(2)	Possession of sealed liquor contrary to Local Law	2
54(5)	Failure to comply with a direction	2

Attachment 8 - Port Phillip - Local-law-number-1-community-amenity

Clause	Offence	Penalty Units
55(1)	Smoke in a *smoke free area*	1
55(3)	Failure to comply with a direction	1
56	Use of boats or other *personal watercraft* contrary to Local Law	1
57(1)	Allowing *land* to be kept in a dangerous or unsightly manner	5
57(3)	Allowing building to become dilapidated	5
57(6)	Allowing an area around a *clothing recycling bin* to become unsightly	5
58(1)	Lighting *incinerators* and open air fires contrary to Local Law	5
59(1)	Failing to remove *animal* excrement	2
59(2)	Failing to carry a receptacle, bag or similar device in which to place *animal* excrement	2
60(1)	Making shopping trolley available without meeting specified requirements	5
60(2)	Leaving shopping trolley on *road* or *Council land* or failing to remove a shopping trolley	5
61	Riding or leading horse contrary to Local Law	5
62	Placing glass or sharp object on *beach*	2.5
62A	Taking any glass container, bottle, receptacle, vessel or like product onto a beach or designated glass free area, without a *permit*	2.5
72	Making false representation or omission of relevant information in application for a *permit* or exemption	5
74	Failing to comply with directions	2
77	Failing to comply with a Notice to Comply	10

Attachment 9 - Port Phillip - Updated-procedures-and-protocols-manual

CITY OF PORT PHILLIP PROCEDURES AND PROTOCOLS MANUAL

01 September 2013

Note this manual should be read in conjunction with the City of Port Phillip Local Law Number 1 (Community Amenity)

Incorporates amendments provided by Community Amenity (Amendment) Local Law No 1 of 10 October 2019

Attachment 9 - Port Phillip - Updated-procedures-and-protocols-manual

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PART 1 – PRELIMINARY PROVISIONS

1. Title

This document is referred to as the "Procedures And Protocols Manual".

2. Purpose

The following document includes the procedures and conditions that are applicable under the City of Port Phillip Local Law No.1 (Community Amenity) (the Local Law).

When conducting any investigations under the Local Law, authorised officers will have regard to their obligations under the Charter for Human Rights and Responsibilities.

The City of Port Phillip recognises that there are many people within the community that are homeless or may have complex needs, such as mental illness, addiction or domestic violence.

Authorised officers will continue to perform their duties with consideration and compassion, and provide referrals to other work areas in Council to assist in these circumstances.

In order to improve accessibility and understanding between the Local Law and this document, the sections are now numbered to reflect the relevant Local Law clause. For example Clause 73 of the Local Law refers to Delegations and sub-section 73 of this document includes the list of delegations with respect to powers under the Local Law.

Not all Clauses of the Local Law have specific procedures included in this manual and for those sections, which are intentionally left blank, reference should be made to Section 2 (general guidelines) and Section 73 (delegations).

2.1 General Guidelines

Officers have discretion in enforcing the Local Law. Officers have internal procedures to ensure that the Local Law is enforced consistently by the team in a variety of circumstances.

The key method used when considering taking any enforcement action is a risk management approach. Local laws investigations cover a wide range of issues and the outcomes can vary considerably.

2.2 Investigation Examples

No offence – the officer attends and find there is no issue. The officer will communicate their findings to the complainant

Minor issue – can be remedied quickly. The officer may issue a letter or Notice to Comply advising the person how the issue may be rectified. For example, overhanging branches that may be impeding pedestrian access. The time frame provided to rectify the issue will reflect how urgent the issue is.

Permit issue example 1 - If a trader is found to not have a permit for placement of goods on the footpath, such as an A board, they will be asked to remove it and obtain a permit prior to placing the board out again.

Permit issue, example 2 – This may include not having obtained a permit for a specific activity. If the permit is required for a high risk activity, such as placement of a crane on Council land, then the likely outcome would be the issuing of an infringement notice.

Matters referred directly to Court – some serious issues may be referred straight to Court, such as aggravated littering, when a large volume of waste is dumped somewhere or put down a storm water drain.

3. Sections 3 to 8 not included

PART 2 - PROCEDURES IN RELATION TO ACTIVITIES AND USES REQUIRING A PERMIT.

9. Permits and Offences

Specific procedures in relation to permits can be found in subsequent specific sub-sections relating to specific permit types.

10. Footpath Activities

Procedures relating to footpath activities can be found in the *Footpath Trading Guidelines*, which are published by Council from time to time.

11. Advertising Signs

11.1 Standard conditions for advertising signs

(a) Community Signage Board Guidelines and Conditions

Eligibility:

The following groups will be eligible to apply to erect a temporary advertising sign:

- City of Port Phillip Non-profit Aged and Disability Groups, Youth Groups, Arts and Cultural Groups and Non- profit community groups which meet Council's strategic directions.
- City of Port Phillip schools and preschools.
- City of Port Phillip Service Clubs.

All signs are to promote an event or activity.

The following groups/organisations/activities will be ineligible to apply to erect a temporary advertising sign:

- For-profit and commercial organisations are not eligible to apply to erect temporary signage.
- Tobacco, gambling or alcohol promotion or advertising.
- Activities that do not meet goals or objectives of the Council Plan.

Erection of Signs without Permission:

- Groups, organisations or individuals who erect advertising signage without permission, will be directed to remove the signage within 24 hours. If this request is not complied with, Council will impound the signage.

Display Duration:

- The display period for a temporary sign will be a maximum of fourteen (14) days.

Limits on Size and Number of Signs:

- Temporary community advertising signs must not exceed five (5) square meters and would preferably be three (3) square meters or less.
- A maximum of two signage boards only per application will be permitted.

Content of Signs:

- The content of the sign must be submitted for approval with the application.
- Council reserves the right to disallow an application which it deems is not consistent with Council directions.

Sponsorship:

- Sponsorship identification on community signs is not to exceed 20% of the sign display area or 0·6 square meters, whichever is the lesser.
- Temporary advertising signage which displays sponsorship or advertising relating to tobacco or gambling associated activities, events or organisations, will not be granted approval to be erected in parks and reserves.

Placement and Removal of Signs:

- It is the responsibility of the applicant to erect, dismantle, and remove signs.
- Signs must be securely fixed into position, structurally adequate and demonstrate consideration for all loads that may be applied.
- When the sign(s) is (are) dismounted, all brackets, pegs and fasteners are to be removed. Signs must be taken down within 24 hours of the permit expiry date.
- Signs that are not removed by the due date, or on request thereafter, will be removed by Council and the costs of removal and storage recovered from the applicant.
- Signs are only to be placed at the designated site(s).

Conditions:

- A copy of this permit shall be retained by the signage supervisor as stated above and shall be produced for

inspection upon request by any member of the Victoria Police or authorised Port Phillip Council Officer.

- No sign shall be placed on a building, premises and/or land without the prior consent of the occupier/landlord.
- All approved signage is safely and securely fixed.
- All approved signage must be removed by the date provided on the permit.
- All signage is restricted to that which has been submitted and approved by formal application to Port Phillip Council.
- Bookings for signage will only be received for dates less than six (6) months out at the time of application.

(b) Standard Conditions for a Real Estate Advertising Sign

- The permit-holder is hereby permitted to place real estate pointer boards within the City of Port Phillip.
- Advertising signs promoting auctions, sales or an open house viewing must only be placed on footpaths and nature strips or Council land on the day of the event.
- The size of any advertising sign must not be greater than 1 metre in height or 70cm wide.
- The advertising sign must be removed within two hours of the conclusion of the auction/inspection.
- The advertising sign must not be placed on median strips, roundabouts or similar structures or works forming part of a road.

(c) Standard Conditions for Mobile Billboards

- A mobile billboard must not be located in a parking area for more than 2 hours regardless of whether the appropriate fee has been paid; and
- there must be at least a minimum separation of 200 metres between mobile billboards at any one time.

11.2 Designated areas for advertising signs

(a) Community Advertising Signs are permitted in the following locations within the municipality:

(i) Sol Green Reserve, City Road South Melbourne

(ii) Williamstown Road, Port Melbourne

(iii) Bay Street, Port Melbourne (opposite 317 – 334)

(iv) Bay Street, Port Melbourne (opposite 173)

(v) O'Donnell Gardens, St Kilda

(vi) Jacka Boulevard Overpass, St Kilda

(vii) Alma Park, St Kilda

(viii) St Kilda Town Hall

(ix) Beach Car Park Entry off Ormond Esplanade, Elwood

(x) Other Sites as Approved.

(b) Community advertising signs are prohibited in the following locations within the municipality:

(i) St Kilda Junction;

(ii) Canterbury Road/Fitzroy Street/Grey Street;

(iii) Beaconsfield Parade/Fitzroy Street/ Jacka Boulevard;

(iv) Beaconsfield Parade/Kerferd Road;

(v) Ferrars Street/Kerferd Road/Canterbury Road/Albert Road.

(c) Mobile Billboards

(i) Mobile billboards are prohibited in the following locations within the municipality:

- Ormond Esplanade, Marine Parade, Jacka Boulevard, Beaconsfield Parade, Beach Street, Beacon Road, The Boulevard and abutting car parks, including foreshore car parks
- St Kilda Road
- Fitzroy Street
- Acland Street Commercial Zone
- Clarendon Street Commercial Zone
- Bay Street Commercial Zone
- Carlisle Street Commercial Zone

Note: In all other locations, relevant parking restrictions must be complied with at all times.

(ii) Mobile billboards are not permitted within the designated local access only zone for the period of the Australian Grand Prix from midnight on the Monday preceding the Grand Prix to midnight on the Monday following the Grand Prix.

11.3 Delegations for advertising signs

Please refer to sub-section 73 for the relevant delegations.

11.4 Enforcement guidelines for breaches of Clause 11 of the Local Law

Council officers will generally follow the guidelines set out in the table below following detection of a breach of clause 11 of the Local Law regarding advertising signs:-

	Community Group	'Small' Commercial Operator	'Major' Corporate Operator
First offence	Issue Notice to Comply - for removal within 7 days	Issue Notice to Comply - for removal within 7 days	Issue Infringement Notice and Issue Notice to Comply - for removal within 7 days
Non compliance after first offence and Notice to Comply	Issue Infringement Notice	Issue Infringement Notice to those identified within the local law.	Consider and implement available legal remedies (inc. clean up at cost of bill poster, issue of further PINs, issue of Summons).
Second or subsequent Offence	Issue Notice to Comply - for removal within 3 days.	Issue Infringement Notice to those identified within the local law and Notice to Comply within 24 hours.	Consider and implement available legal remedies (inc. clean up at cost of bill poster, issue of further PINs, issue of Summons).
Non compliance after second offence and Notice to Comply	Issue Infringement Notice	Consider and implement available legal remedies (inc. clean up at cost of bill poster, issue of further PINs, issue of Summons).	Consider and implement available legal remedies (inc. clean up at cost of bill poster, issue of further PINs, issue of Summons).

12. Itinerant Trading

Please refer to sub-section 73 for delegations in relation to this clause.

13. Itinerant Trading from House to House

Please refer to sub-section 73 for delegations in relation to this clause.

14. Occupation of Roads

14.1 Standard conditions for a street occupation / hoarding

(a) This permit is subject to compliance with the Construction Management Measures contained under Local Law No. 1 (Community Amenity) 2013, Procedures & Protocols Manual Section 14.1.

(b) A minimum 1.5m width must be maintained unless otherwise approved, for safe pedestrian access. Pedestrian safety must be maintained at all times by the appopriate use of bollards and tape. On each approach to the occupied area, one or more of the following signs must be displayed and in place;

(i) Arrows, or

(ii) Pedestrians Watch Your Step or,

(iii) Use Other Footpath

(c) Accredited Traffic Controllers must operate in accordance with any approved Traffic Management Plan associated with the works. Traffic Controllers must assist pedestrians and cyclists as required.

(d) If traffic flow is affected by the works, emergency services, including Fire Brigade, Ambulance and Police must be notified by the permit-holder a minimum of 24 hours prior to commencement of works.

(e) The City of Port Phillip does not accept any responsibility for accidents, damage or injury to property, participants or third parties that may arise out of this event. There must be public liability insurance for the type of work proposed with an indemnity of not less than $10M, including full indemnity for the City of Port Phillip Council against any claim laid against it either by members of the public or persons engaged in any activities associated with the works who, as a result of the works, suffer personal injury, property damage or financial loss.

(f) To the satisfaction of, and at no cost to Council, the permit-holder must reinstate all assets and infrastructure.

(g) To amend the dates of this licence requires a written request to be received by the Development Permits unit by 9am, whilst the permit is valid. Once this permit has expired it cannot be re-used, amended or fees refunded. A maximum of 2 amendments to the dates of the permit can occur prior to incurring additional costs.

(h) A copy of this permit must be kept on-site and presented to any authorised officer upon request.

(i) All other standard conditions and Council permits and licenses apply.

(j) The City of Port Phillip reserves the right to amend or revoke the above at any time.

14.2 Standard conditions for a road opening (A permit issued under the Road Management Act 2004)

(a) This permit is subject to compliance with the Construction Management Measures contained under Local Law No. 1 (Community Amenity) 2013, Procedures & Protocols Manual Section 14.2.

(b) A minimum 1.5m width must be maintained unless otherwise approved, for safe pedestrian access. Pedestrian safety must be maintained at all times by the appopriate use of bollards and tape. On each approach to the occupied area, one or more of the following signs must be displayed and in place;

(i) Arrows, or

(ii) Pedestrians Watch Your Step or,

(iii) Use Other Footpath

(c) All traffic treatments must be in accordance with any Traffic Management Plan submitted to Council and maintained during the works.

(d) Signage must be visible and must not obstruct sightlines, footpaths and vehicle crossings and access points.

(e) Accredited Traffic Controllers must operate in accordance with any approved Traffic Management Plan associated with the works. Traffic Controllers must assist pedestrians and cyclists as required.

(f) The City of Port Phillip does not accept any responsibility for accidents, damage or injury to property, participants or third parties that may arise out of this event. There must be public liability insurance for the type of work proposed with an indemnity of not less than $10M, including full indemnity for the City of Port Phillip Council against any claim laid against it either by members of the public or persons engaged in any activities associated with the traffic diversion who, as a result of the diversion, suffer personal injury, property damage or financial loss.

(g) To the satisfaction of, and at no cost to Council, the permit-holder must reinstate all assets and infrastructure.

(h) In addition to the requirement to obtain a Road Opening Permit, further permits may be required for activities on Council land such as Skip Bin, Road Closure, Street Occupation, or Asset Protection. Consents may also be required from VicRoads, utilities and public transport operators.

The permit-holder must ensure all relevant permits and approvals have been obtained prior to commencing any works.

(i) To amend the dates of this licence requires a written request to be received by the Development Permits unit by 9am, whilst the permit is valid. Once this permit has expired it cannot be re-used, amended or fees refunded.

(j) A maximum of 2 amendments to re-schedule the works are allowed before incurring additional fees.

(k) This permit must be kept on-site and presented to any authorised officer upon request.

(l) All other standard conditions and Council permits and licenses apply.

(m) The City of Port Phillip reserves the right to amend or revoke the above at any time.

Prior to commencement – Notifications and inspection

(n) The permit-holder must provide a minimum of 2 business day's written notification to the occupants of all affected owners, occupiers and businesses affected by the works and a copy forwarded to the City Permits unit, e-mail: devpermits@portphillip.vic.gov.au. Notification must include:

  (i) The nature of the works being performed

  (ii) The date and hours of works occurring under this permit

  (iii) Council's permit reference

  (iv) Contact name and phone number for the permit holder and/or site manager

(o) The permit-holder must contact the Asset Inspection Officer at least 2 business days before commencing works, by e-mail: helpassetinspection@portphillip.vic.gov.au, or Ph: 03 9209 6220, to arrange an inspection to determine:

  (i) the extent of reinstatement works including road pavement, signage and markings

  (ii) the requirement for further inspections,

  (iii) any requirements for the removal, storage and reinstatement of bluestone assets

  (iv) removal and reinstatement of street furniture, (litter bins, public seating and bicycle hoops)

During construction

(p) Works that may cause significant delay to traffic and/or public transport services must be scheduled outside peak periods of 7–9am and 4–6pm weekdays unless otherwise permitted with the written consent of Council.

(q) Works must be carried out in accordance with 'Road Management Act 2004 Code of Practice Worksite Safety – Traffic Management' and any approved Traffic Management Plan.

Work execution

(r) Without the written consent of the Council the permit-holder must utilise boring techniques when installing underground services. Any piping or cabling work under an existing vehicle crossing must be carried out by boring, unless approval from Council's Asset Inspection Officer has been obtained.

(s) Within 7 days of completion of the works the permit-holder must submit a request for final inspection to e-mail: devpermits@portphillip.vic.gov.au.

(t) If agricultural drains or irrigation pipes are encountered during excavation the permit-holder must carefully replace the pipes to their original position prior to backfilling.

(u) The minimum lateral clearance from a drain is 500mm and a vertical clearance of 300mm. If the proposed road opening or any other work interferes with any underground drains, the approval must be obtained from the Council's Assets department prior to the commencement of works.

(v) The minimum lateral clearance from a street tree is 2 metres. If the proposed road opening is less than 2 metres, consent must be obtained from Council's Arborist.

(w) Reinstatement of finished surfaces must match and be flush with existing.

(x) Any excavated material must be removed from the road reserve daily and the area left in a clean and tidy condition.

(y) Any damage to Council assets caused by the permit- holder's reinstatement works must be rectified to the satisfaction of Council's Asset Inspection Officer.

(z) Failure to restore the road reserve and associated assets will result in Council undertaking the reinstatement works and deducting the cost from the security bond and the remainder refunded. Where costs exceed the security bond amount held, the permit holder will be liable for the excess and charged accordingly.

(aa) If works are conducted in contravention of this permit, the City of Port Phillip reserves the right to amend or revoke the above at any time.

Reinstatement of footpaths

Asphalt footpaths

Specification for Asphalt Footpath – Refer to Standard Drawing: SD3103

(bb) The permanent asphalt layer of footpaths must be constructed in accordance with Council's current Standard Drawing.

(cc) The Bituminous surface at the edges of the trench must be cut with a circular saw.

(dd) A temporary bituminous surface of premix (cold-mix) minimum depth 75mm must be constructed before the crossing is opened to traffic, unless the permit-holder is completing a permanent reinstatement immediately with hot-mix asphalt.

(ee) The full width of the footpath must be reinstated. Where only part of a concrete footpath/vehicle crossing panel has been damaged, reinstatement must include the removal and reinstatement of the whole panel.

Concrete footpaths
Specification for Concrete Footpaths – Refer to Standard Drawing: SD3103

(ff) The permanent concrete layer of footpaths must be constructed in accordance with Council's current Standard Drawing.

(gg) Concrete footpath areas affected by works will be reinstated in full sections within the surrounding joints unless directed otherwise by Council's Asset Inspection Officer.

(hh) Existing surface levels must be maintained and the tops of all service pits/junction boxes must be at the footpath surface level.

Reinstatement of road pavements

(ii) Where the permit-holder or contractor's road opening is less than 1.0 metre from the lip of a channel, the floating section of pavement must be removed and the final surface reinstatement will be from the furthest edge from opening/trench to the lip of channel.

(jj) All road pavement surfaces must be cut with a circular saw.

Flexible road pavement (Asphalt)

Specification for Flexible Road Pavements – Refer to Standard Drawing SD3103

Rigid Road Pavement (Concrete)

Temporary reinstatements

(kk) All temporary road reinstatements must be finished with cold-mix (premix asphalt) flush with the existing surfaces unless permanent hot-

mix asphalt reinstatement is being completed immediately following the compaction of the pavement surface.

Nature strips

(ll) All nature strips must be reinstated. Backfilling of nature strips must be completed with natural soil material compacted in 150mm layers, 90% standard compaction to a level 75mm below surface. The remaining backfill must be uncompacted topsoil to 15mm above the surface level and the surface even and seeded to Council's satisfaction. The area must be kept moist until germination has occurred.

Reinstatement of vehicle crossings
Specification for Vehicle Crossings – Refer to Standard Drawing SD4101

(mm) The vehicle crossing must be constructed in accordance with Council's current Standard Drawing.

(nn) Concrete vehicle crossings affected by works must be reinstated in full sections (panels) within the surrounding joints unless otherwise directed by Council's 'Asset Inspection Officer'.

(oo) When reinstating a section/panel, Y16 dowel bars 400mm lengths must be inserted 200mm into the existing concrete surface and spaced 300mm apart.

Kerb and channel

Specification for Concrete Kerb and Channel – Refer to Standard Drawing SD1101

Specification for Bluestone Kerb and Channel – Refer to Standard Drawing SD1102

(pp) The kerb and channel must be reinstated to the satisfaction of Council's Asset Inspection Officer.

Bluestone pitchers

Specification for Bluestone Pitchers – Refer to Standard Drawing SD3101

(qq) The bluestone pitcher kerb and channel, and pavement must be reinstated to the satisfaction of Council's Asset Inspection Officer.

(rr) City of Port Phillip reserves the right to amend or revoke the above at any time.

15. Special Events

15.1 General

Under Clause 15 of the Local Law No. 1 (Community Amenity), a permit is required to hold a Special Event. Application forms for events are available on the City of Port Phillip website. A Special Event includes the following kinds of event:

(a) Events with 20+ attendees

(b) Markets produced by external providers

(c) Promotional activities

Application requirements

An application for a special event must provide:

a) Details of the event in the format required by the Council

b) Detailed event operations and management plans

c) Evidence of support from emergency service providers

d) Proof of gaining approval for all other regulatory requirements, including (but not limited to) liquor licences, APRA licences and building permits.

e) A certificate of currency indicating that the applicant has at least $20m public liability insurance.

15.2 Standard conditions for events, markets and promotions

General Conditions:

(a) A copy of this approval letter must be produced on request by any authorised Council Officer during the conduct of the activity.

(b) Your organisation/the permit holder nominates [insert name] including their mobile telephone number [insert number] who can be contacted on the day of the activity.

(c) This permit is not transferable.

Site Management

(a) It is the responsibility of the permit holder to:

(i) Leave the event area in a clean and tidy condition.

(ii) Ensure that there is no damage to property, council assets or the environment resulting from the conduct of the event and/or its associated activities.

(b) Permit holders will be required to reimburse council for the cost of any restoration or repairs which are required as a result of the event and/or its associated activities.

(c) The site set up must be as per an approved layout plan for the event.

(d) The permit holder must not use the permitted site for any other purpose other than what is specified in the approved location.

(e) All infrastructure is to be weighted, not pegged.

(f) All infrastructure must be placed at least 2 metres away from the base of and meet all specific tree protection restrictions required of the site.

(g) Nothing is permitted to be attached to trees or existing council assets.

(h) The permit holder is responsible for any damage caused to the garden, reserve, foreshore or surrounding area by event contractors or sub contractors.

(i) The permit holder must not make any alterations to any fixtures or fittings or interfere with any services without the consent in writing of the City of Port Phillip.

(j) The permit holder must not:

  (i) do anything that is or may be dangerous or offensive or that may interfere with other persons;

  (ii) do anything which might affect any insurance policy relating to the permitted event by causing it to become void or voidable or having claim on it being rejected or by causing any premium payable by City of Port Phillip to be increased;

  (iii) remove any of City of Port Phillip property from the permitted site without permission.

(k) City of Port Phillip site gates at the reserve are to remain locked once bump in has been completed, other than during waste collection periods.

(l) The permit holder is responsible for any damage caused to the garden, reserve, foreshore or surrounding area by event contractors or sub contractors.

(m) The permit holder must permit authorised council officers access into any area of the permitted event site at any time for the purpose of compliance inspections.

(n) Should your event be conducted on or adjacent to Council's bike path, you are required to provide a suitable number of crowd controllers to ensure public safety.

(o) A minimum walking space of 1.5 metres must be left on the footpath for pedestrians

(p) To enable emergency access, the event area must provide a clear 2.5 metre walkway for other pedestrian traffic at all times.

(q) The permit holder must provide adequate mobile toilets appropriate to the number of patrons expected.

(r) Cable covers must be used for any cables or trip hazards running across pathways or pedestrian areas.

Noise Management & Music Approvals

(a) Noise and music must be kept at acceptable levels at all times creating as little disturbance as possible to surrounding residences. Acceptable levels include those specified by EPA, any authorised Council Officer or the Victorian Police during the conduct of the event.

(b) Noise management must comply with EPA SEPP N-2 and 5dB(A) above background level in accordance with EPA 1254.

(c) Noise from the event must be managed as per an approved Noise Management Plan.

(d) All amplified noise must be monitored and levels must be recorded at sites designated by council officers. This information must be supplied to council 24 hours after the event conclusion.

(e) A complaints handling procedure must be in place to promptly action any noise complaints.

(f) Any amplified PA system used at any time must have speakers facing seaward or away from residential areas where possible.

(g) Events which involve live or recorded music must obtain the appropriate licences or tariffs from the Australasian Performance Company of Australia (APRA) and/or the Phonographic Performance Company of Australia (PPCA).

(h) The permit holder indemnifies City of Port Phillip for any liability to the copyright owner, APRA and/or PPCA arising from the performance of any musical work or music video without the appropriate licences or authority.

Health & Amenity Management

(a) Advertising of tobacco and gambling is not permitted

(b) The selling of food or drink by wandering vendors is not permitted.

(c) No balloons (including helium filled) may be used at the event.

(d) This permit is subject to appropriate approvals from the City of Port Phillip Health Services in regards to the serving and selling of food and drink. All food/drink vendors must apply for a temporary food premises permit via Streatrader https://streatrader.health.vic.gov.au/public_site

Waste Management

(a) It is the event organiser's responsibility to ensure that all waste is removed from the event site and is correctly disposed of at the conclusion of the event.

(b) No waste associated with the event (such as advertising material) is to go into Council waste containers. This does not include general public waste such as food and drink containers.

(c) The permit holder will be required to reimburse council for the cost of any additional cleaning or waste removal required post event.

Communications Management

(a) All signage approved by this permit must not be varied from an approved Signage Plan.

Risk Management

(a) The permit holder is required to hold current public liability insurance to the value of $20 million indemnifying Council against any liability arising from the event.

(b) Event organisers have a duty of care under the Victorian Occupational Health and Safety Act 2004 (the OHS Act) to provide a safe operational environment. Under this legislation, event organisers must ensure so far as reasonably practicable that people are not exposed to risks arising from the event or associated activities.

(c) The permit holder is responsible for managing the event safety risks through integrated event safety planning and associated approved documentation.

(d) The permit holder acknowledges that occupational health and safety in relation to the permitted event is the responsibility of the permit holder (other than to the extent City of Port Phillip cannot at law contract out of its obligations with respect to the Occupational Health and Safety Act).

(e) The permit holder must comply with all OH&S laws and applicable Australian Standards.

(f) The permit holder is responsible for the security of event equipment and property.

(g) The permit holder is responsible for the safeguarding of the public against injury and for maintaining the site during the conduct of the event in a safe condition at all times.

(h) The permit holder must notify a City of Port Phillip representative immediately after an accident or any incident involving injury or property damage.

(i) As a general precaution, EPA advises against swimming near stormwater drains, rivers, streams and other outlets into Port Phillip Bay during rainfall and for at least 24 hours afterwards. It is the responsibility of event organisers to decide whether to cancel, postpone, or alter an event due to the possibility of stormwater pollution. Refer to EPA's Beach Report website (http://yarraandbay.vic.gov.au/beach-report) for information on assessing beach water quality.

(j) A pedestrian/traffic management plan must be supplied to ensure the safety of public users (including cyclists), event staff and volunteers

onsite during the bump in, bump out and during the event in regards to the use of machinery/plant equipment & vehicles.

Traffic management

(a) The permit holder must finalise the Traffic Management Plan at least 8 weeks prior to the event with Council's Traffic Engineer to develop and implement a viable traffic management plan.

(b) Traffic must be managed and implemented according to the approved Traffic Management Plan.

(c) Ten days prior to the event, the permit holder is to letter drop surrounding residents advising them of the road closure and the time of the event. Major road closures may require additional letter drops.

(d) The permit holder is accountable for the removal of all traffic signage associated with the event within 4 hours of the event's conclusion.

(e) Barricades must be secured so as not to be moved around easily by weather or unauthorised persons.

Parking and vehicles

(a) No parking is permitted on the foreshore or the promenade.

(b) All parking and vehicle usage is subject to Council parking restrictions, local laws and state road rules.

(c) Vehicles can only access the site to off-load equipment and for pack-up. Outside these times, all vehicles associated with the event must park in the designated roadside or car parking spots.

(d) Vehicular access on the promenade must be in line with the "St Kilda Foreshore Promenade – Vehicular Access and Load Limitations' Document. This can be found at Event Maps & Resources - City of Port Phillip Website

(e) The permit holder must ensure all vehicles accessing the site comply with the Conditions of the Vehicles in Reserves & Parks guidelines.

(f) The permit holder may be charged a fee per unauthorised vehicles parked onsite during the event.

Non-Compliance

(a) A breach of any of the conditions of this permit may result with enforcement action being taken against the permit holder and/or the organisation responsible for the event. This action may include the issuing of fines to each interested party, cancellation of the permit or with the matter being referred to the Magistrates' Court.

(b) Any enforcement action that is required in relation to this permit may affect future applications lodged by the event organiser with this Council.

Special Conditions – applied as required:

(a) Any pegging of temporary structures must occur a minimum of ½ metre away from irrigation lines and 2 metres from any power cables.

(b) The organiser needs to contact 'Dial Before you Dig' prior to any pegging or structures.

(c) All temporary structures must be weighted and not pegged when on grassland.

(d) Cable covers must be used on low lying cables.

(e) Site set up must be as per the approved layout plan.

(f) A structural design is to be provided from a qualified and registered structural engineer taking into account the wind loads along the foreshore.

(g) The permit holder must supply a Certificate of Compliance (Design) issued by the structural engineer pursuant to Regulation 1507 of the Building Regulations 2006.

(h) The permit holder must supply a Certificate of Compliance (Inspection) issued by the structural engineer pursuant to Regulation 1507 of the Building Regulations 2006

(i) All infrastructure must be supported by compliance certificates and have sign off from a structural engineer.

(j) Inflatable rides must comply with Australian Standards for Amusements Rides and Devices.

(k) Inflatable structures must comply with council guidelines Use of Inflatable or Mechanical Rides.

(l) The nursery must comply with The Department of Primary Industry's Code of Practise for the Display of Animals.

(m) Animal nurseries or farms must comply with council guidelines for Use of Animal Nurseries/Farms.

(n) This permit is conditional upon Siting Approval for a Prescribed Temporary Structure and/or approval for an Occupancy Permit for a Place of Public Entertainment.

(o) All infrastructure is to be weighted, not pegged.

(p) Any vehicles onsite must use existing pathways to enter/exit. Vehicles during bump in/out must be kept to a minimum.

(q) Any damage or disturbance to grass, gardens or soil must be immediately reported to Council.

(r) Vehicles must drive slowly onto the forecourt area and a marshal must walk in front of the vehicle during bump in/out to ensure pedestrian safety.

(s) The vehicle must enter and exit via Cavell Street and are not to drive over or through pedestrian crossings.

(t) All vehicles must comply with the above conditions (including bump in/out vehicles)

(u) The activity must be clearly marked with flags/signage to show that it is an event.

(v) Trees must be protected as per the Catani Gardens Tree Protection Map.

(w) Heritage features within the garden must be protected as per the Catani Gardens Heritage Conditions guidelines.

(x) Vehicles must only enter and exit via Pier Rd gates.

(y) Vehicles need to stay on paths as much as possible.

(z) The permit holder must ensure all vehicles accessing the site comply with the Conditions of the Catani Gardens Vehicle and Site restrictions.

(aa) Access to the event site is only permitted via the reserve.

(bb) The permit holder must ensure all vehicles accessing the site comply with the Conditions of the South Beach Reserve Vehicle and Site restrictions

(cc) No vehicles are permitted access onto the paved or concreted pathway surrounding the reserve at any time. The permit holder is responsible for any damage caused to the surrounding pavers during the event, including bump in or bump out.

(dd) Appropriate approvals must be obtained from the Civil Aviation Safety Authority.

(ee) This permit is conditional upon an approved Filming Permit issued by the City of Port Phillip Film Unit.

(ff) This permit is conditional upon an approved Liquor Licence and all conditions specified on this licence as issued by the Victorian Commission for Gambling and Liquor Regulation (VCGLR).

(gg) No pass outs are permitted.

(hh) This permit is conditional upon approvals by Parks Victoria for all activities in the water.

(ii) If animal nurseries/farms are part of the event you need to comply with the following conditions:

(i) Have hand-washing facilities to protect the public from contracting transmittable diseases from the animals

(ii) Your site plan should show the location of the animal nursery

(iii) The set up needs to be on a surface that is suitable for animals and that doesn't damage the site.

(iv) Adequate shade, food and water must be provided to the animals at all times.

(v) All animal waste must be appropriately disposed of.

(vi) The management of the animal nursery should be included in your risk assessment

(vii) The nursery must comply with The Department of Primary Industry's Code of Practise for the Display of Animals.

(viii) It is the event organisers' responsibility to ensure the proprietor is setting up and controlling the animal nursery in a safe and compliant manner for the duration of the event, and that the operators are suitably licensed.

Acland Street Plaza conditions (as required)

(a) Vehicles must drive slowly onto the forecourt area and a marshal must walk in front of the vehicle during bump in/out to ensure pedestrian safety.

(b) The vehicle must enter and exit via Barkly Street and are not to drive through pedestrian crossings.

(c) All vehicles must comply with the above conditions (including bump in/out vehicles)

(d) The activity must be clearly marked with flags/signage to show that it is an event.

(e) Vehicles cannot be left in the Plaza during the event

(f) Vehicles must not exit the plaza in there is a large crowd

(g) All waste to be removed on conclusion of the event

16. Street Party

This section is intentionally blank.

17. St Kilda Festival Activities

Under clause 17 of the Local Law No. 1 (Community Amenity), a permit is required to carry out certain activities in the St Kilda precinct during the St Kilda Festival. A permit of this kind of called a 'St Kilda Festival Permit'. Application forms for events are available on the City of Port Phillip website. St Kilda Festival Permits include:

- St Kilda Festival itinerant food trader permit (17.1)
- St Kilda Festival itinerant market trader permit (17.2)
- St Kilda Festival permanent trader permit (17.3)
- St Kilda Festival busking permit (17.4)
- St Kilda Festival temporary fence permit (17.5)
- St Kilda Festival event permit (17.6)
- St Kilda Festival filming and photography permit (17.7)
- St Kilda Festival promotional sampling permit (17.8)

17.1 Standard conditions for St Kilda Festival itinerant food trader permit

TRADING SITE

(a) Permit and plan must be kept on site by the permit holder and must be produced on request to an authorised officer of the Council or St Kilda Festival staff.

(b) The activity authorised as specified on the vendor's permit can only be conducted in the area specified on the accompanying plan.

(c) The level of use must not exceed that indicated in the application for a permit and may only consist of the approved activity as advised in the permit.

(d) At the completion of the Festival, the permit holder must clear the site that has been occupied during the period of the Festival. If trading on a roadway, all infrastructures must be cleared from the road at 10:00pm.

(e) The site surface must be left by the trader in a clean state at the conclusion of the event as deemed by St Kilda Festival Management. (An additional fee to cover cleaning will be incurred if the site is not deemed in an appropriate state.)

(f) Trader placement on site is at the absolute discretion of St Kilda Festival Management.

(g) All vendors serving food must have a copy of and comply with the Guide to the Design and Inspection of Gas Installations in Mobile Catering Vehicles Checklist on site. (Inspections will be conducted.)

PRODUCTS FOR SALE

(a) No business is allowed to sell or promote any product outside the business activity advised in the product list, submitted with application and approved by St Kilda Festival Management.

(b) Only St Kilda Festival sponsorship beverages may be sold and hence must be purchased from the St Kilda Festival prior to the event.

(c) Alcohol must not be served or sold.

PRODUCT STORAGE

(a) The trader must not bring a cool room on site unless it has been approved and permitted by St Kilda Festival Management.

(b) The trader must contain all storage and other equipment within the confines of their site.

INFRASTRUCTURE

(a) Hired infrastructure must be left in a clean state at the conclusion of the event as deemed by St Kilda Festival Management. (An additional fee to cover cleaning will be incurred if the infrastructure is not deemed in an appropriate state.)

(b) No item or infrastructure e.g. umbrellas, signage, tent lines or pegs, etc. may protrude from or sit outside of the allocated site area.

HEALTH REGISTRATION

(a) All vendors serving food are required to have a current health Registration Certificate, issued by their Principal Council (Class 2 & 3) and Food Safety Program (Class 2). All vendors serving food must also have submitted a Statement of Trade to both their Principal Council and the St Kilda Festival (City of Port Phillip).

INSURANCE

(a) The permit holder must provide a Certificate of Currency from their insurance company providing a minimum cover of $10 million. (In addition, the Certificate must name the City of Port Phillip as an interested party in the policy for the period of the event.)

(b) The permit holder must indemnify the Council against all losses and claims resulting from the permit holder's negligence.

VEHICLE ACCESS

(a) Only vehicles with accreditation from the St Kilda Festival may enter the site between 6:00am and 9:00am for the purposes of equipment

delivery. Traders vehicles will not under any circumstances be granted access to their site after 9:00am.

(b) Under no circumstances can vehicles be brought back onto the site at the conclusion of the event prior to clearance being given by Victoria Police via your local Site Manager. (Vehicle access will be granted to festival accredited vehicles only after 10:00pm for equipment collection, provided Victoria Police in the Event Control Centre have given vehicle safety clearance to renter the site, via your Site Manager.)

(c) No vehicles other than permitted mobile food vehicles can be present on site during the event. (Accredited parking access for support vehicles must be obtained from St Kilda Festival Management prior to the event.)

(d) No vehicle access will be allowed under any circumstances between 9:00am and 10:00pm on Sunday (insert date). (Vehicles found illegally parked or moving on site between 9:00am and 10:00pm will be fined.)

SAFETY AND AMENITY

(a) No barbecues, hotplates, Bain Maries or other hot servery equipment may be used as shop counters.

(b) All electrical equipment and power leads must have a current electrical test tag. (Inspections will be conducted.)

(c) No amplified music is allowed to emanate from the vending site.

(d) Any reasonable requests made or direction given by City of Port Phillip staff, St Kilda Festival Management, St Kilda Festival appointed staff, or any emergency service organisations pertaining to the trading area must be followed and adhered to immediately.

WASTE MANAGEMENT AND SUSTAINABILITY

(a) All rubbish and waste produced in the area on the attached plan during the period of the festival must be disposed of in the bins provided by the Festival.

(b) Items must be disposed of in the manner required by the Festival's waste management program. (Trade waste is the responsibility of the trader.)

(c) All Itinerant Vendors are responsible for their own liquid waste and must dispose of this waste appropriately outside the Festival precinct.

(d) Traders must use recyclable packaging. (This will be inspected during trade on Festival Sunday and fines may apply for non-compliance.)

ACCESSIBILITY

(a) The trader must not obstruct the pedestrian thoroughfare immediately in front of their trading site.

(b) The service counter/bench/display height of the trader must ideally be no greater than 900mm. In the instance that the height is greater than 900mm, special assistance must be provided to each customer that may require accessibility assistance.

(c) Electronic funds transfer machines must have an extension cord or operate wirelessly so as people with accessibility requirements are not disadvantaged.

(d) The trader must ensure that entrance and exit points of their site are completely accessible to all customers and are not obstructed by signage or other items.

FEES AND CHARGES

(a) Once application to participate as a trader in the 2013 St Kilda Festival has been accepted and an invoice is issued to the trader, the trader is liable for payment. Failure to reconcile payment will result in action from City of Port Phillip. (This may affect the trader's credit history and ability to participate in the St Kilda Festival in future years. Under no circumstances can refunds be issued.)

(b) Total gross revenue/sales figures for trade on the day of the event must be submitted on the provided form within the St Kilda Festival Trader Application Kit to Festival Trader Liaison by close of business, (insert date), via fax on 03 9536 2717 or email to skftraders@portphillip.vic.gov.au. (Failure to so may result in the issuing of an infringement notice or prosecution.)

(c) The total site fee (the balance of 25% of the gross revenue minus the paid Site Permit Deposit Fee) must be paid within 7 days of the invoice date. (Failure to do so will result in action from City of Port Phillip. This may affect the trader's credit history and ability to participate in the St Kilda Festival in future years.)

HOURS OF OPERATION

(a) The permit holder acknowledges that the permit is for (insert date) only.

(b) The permit holder must not commence trading before the specified commencement of 10:00am and must not trade beyond the specified completion time of 9:30pm.

(c) The permit holder must comply with all other statutory requirements and obligations that are applicable to the use or activity, irrespective of whether those requirements and obligations are required by this permit.

17.2 Standard conditions for a St Kilda Festival itinerant market trader permit

TRADING SITE

(a) Permit and plan must be kept on site by the permit holder and must be produced on request to an authorised officer of the Council or St Kilda Festival staff.

(b) The activity authorised as specified on the vendor's permit can only be conducted in the area specified on the accompanying plan.

(c) The level of use must not exceed that indicated in the application for a permit and may only consist of the approved activity as advised in the permit.

(d) At the completion of the Festival, the permit holder must clear the site that has been occupied during the period of the Festival. If trading on a roadway, all infrastructures must be cleared from the road at 10:00pm.

(e) The site surface must be left by the trader in a clean state at the conclusion of the event as deemed by St Kilda Festival Management. An additional fee to cover cleaning will be incurred if the site is not deemed in an appropriate state.

(f) Early access to trading site on days prior to (insert date) is strictly by negotiation with and at the discretion of St Kilda Festival Management. Early access will not be available for any sites on footpaths or roadways.

(g) Trader placement on site is at the absolute discretion of St Kilda Festival Management.

(h) Sites requested are not guaranteed.

PRODUCTS FOR SALE

(a) No business is allowed to sell or promote any product outside the business activity advised in the product list, submitted with application and approved by St Kilda Festival Management.

(b) Alcohol must not be served or sold.

PRODUCT STORAGE

(a) The trader must contain all storage and other equipment within the confines of their site.

INFRASTRUCTURE

(a) Marquee packages and power are provided according to the trader's approved application. Changes to orders and refunds may not be possible once invoice for payment has been issued by St Kilda Festival Management.

(b) Hired infrastructure must be left in a clean state at the conclusion of the event as deemed by St Kilda Festival Management. An additional fee to cover cleaning will be incurred if the infrastructure is not deemed in an appropriate state.

(c) No item or infrastructure e.g. umbrellas, signage, tent lines or pegs, etc. may protrude from or sit outside of the allocated site area.

INSURANCE

(a) The permit holder must provide a Certificate of Currency from their insurance company providing a minimum cover of $10 million. In addition, the Certificate must name the City of Port Phillip as an interested party in the policy for the period of the event.

(b) The permit holder must indemnify the Council against all losses and claims resulting from the permit holder's negligence.

VEHICLE ACCESS

(a) Only vehicles with accreditation from the St Kilda Festival may enter the site between 6:00am and 9:00am for the purposes of equipment delivery. Traders vehicles will not under any circumstances be granted access to their site after 9:00am.

(b) Vehicle access will be granted to festival accredited vehicles only after 10:00pm for equipment collection, provided Victoria Police have given vehicle safety clearance to renter the site. Under no circumstances can vehicles be brought onto site prior to clearance being given by Victoria Police in the Event Control Centre via your Site Manager.

(c) No vehicles other than permitted mobile food vehicles can be present on site during the event. Accredited parking access for support vehicles must be obtained from St Kilda Festival Management prior to the event.

(d) No vehicle access will be allowed under any circumstances between 9:00am and 10:00pm on Sunday the (insert date).

SAFETY AND AMENITY

(a) All electrical equipment and power leads must have a current electrical test tag. Inspections will be conducted.

(b) No amplified music is allowed to emanate from the vending site. All normal noise regulation requirements will apply as per usual.

(c) Any reasonable requests made or direction given by City of Port Phillip staff, St Kilda Festival Management, St Kilda Festival appointed staff, or any emergency service organisations pertaining to the trading area must be followed and adhered to immediately.

WASTE MANAGEMENT AND SUSTAINABILITY

(a) All rubbish and waste produced in the area on the attached plan during the period of the festival must be disposed of in the bins provided by the Festival.

(b) Items must be disposed of in the manner required by the Festival's waste management program. Trade waste is the responsibility of the trader.

(c) All Itinerant Vendors are responsible for their own liquid waste and must dispose of this waste appropriately outside the Festival precinct.

(d) Traders must use recyclable packaging. (This will be inspected during trade on Festival Sunday and fines may apply for non-compliance.)

ACCESSIBILITY

(a) The trader must not obstruct the pedestrian pathway opposite the trading site.

(b) The service counter/bench/display height of the trader must ideally be no greater than 900mm. In the instance that the height is greater than 900mm, special assistance must be provided to each customer that may require accessibility assistance.

(c) Electronic funds transfer machines must have an extension cord or operate wirelessly so as people with accessibility requirements are not disadvantaged.

(d) The trader must ensure that entrance and exit points of their site are completely accessible to all customers and are not obstructed by signage or other items.

FEES AND CHARGES

(a) Once application to participate as a trader in the St Kilda Festival has been accepted and an invoice is issued to the trader, the trader is liable for payment. Failure to reconcile payment will result in action from City of Port Phillip. This may affect the trader's credit history and ability to participate in the St Kilda Festival in future years.

(b) Under no circumstances can refunds be issued.

HOURS OF OPERATION

(a) The permit holder acknowledges that the permit is for Sunday (insert date) only.

(b) The permit holder must not commence trading before the specified commencement of 10:00am and must not trade beyond the specified completion time of 9:30pm.

(c) The permit holder must comply with all other statutory requirements and obligations that are applicable to the use or activity, irrespective of whether those requirements and obligations are required by the permit.

17.3 Standard conditions for a St Kilda Festival permanent trader permit

(a) Trading without a valid Permit to Participate will hold the trader liable and will either incur an infringement notice or prosecution.

(b) All preparation and cooking of food must be done inside the premises as opposed to outside on the footpath or roadway.

(c) The activity authorised as advised by this permit can only be conducted in and must not exceed the area approved on the attached plan.

(d) All designated access roads, footpaths and access arms must not be used by the permit holder for any reason whatsoever and must be kept free from obstruction at all times.

(e) The permit and associated plan must be kept on site by the permit holder and must be produced on request to an authorised officer of the Council, St Kilda Festival Management and/or Police.

(f) The permit holder must provide a Certificate of Currency providing a minimum cover of $10 million. The certificate must list the City of Port Phillip as an interested party in the policy for the period of the event.

(g) The permit holder acknowledges that the permit is for use between the hours of 10:00am and 9:30pm on Sunday (insert date) only.

(h) Sites requested are not guaranteed.

(i) No business is allowed to sub-let or sub-contract under council's site allocation. For businesses wishing to operate in neighbouring premises, the said Operator must have written consent from the neighbouring owner and the festival must be supplied with a copy of this consent.

(j) The trader must not sell or promote any product outside their normal business activity.

(k) All product or branding signage erected within the site of the extended trading area and/or promotional activities undertaken must be approved by St Kilda Festival Management prior to the Festival. Any activities not approved prior to the Festival may face fines or further action.

(l) No alcohol branding signage or promotion shall be permitted within the site of the extended trading area. Branded fridges, umbrellas and hoardings may be permitted at the discretion of St Kilda Festival Management, in writing prior to the event.

(m) The permit holder must take all reasonable steps to ensure that any furniture used during the period of the festival is strong and safe and complies with any standards specified for use.

(n) All equipment hired by the trader, including but not limited to marquees, tables and chairs, must be removed from the road carriageway section of the extended trading area by no later than 10:00pm, so as roads can be safely reopened to traffic. All equipment hired must be completely removed from the site by 11:00pm.

(o) Unless the permit holder has obtained a Temporary Limited Licence from Liquor Licensing Victoria, alcohol must not be served or sold from the area identified in the attached plan.

(p) Where the permit holder has all necessary consents and licenses to serve alcohol in the area identified in the attached plan, the permit holder must comply with the conditions of the licence, including the provision of any signage required by the licence.

(q) The permit holder must not provide any beverages in glass containers in the area identified in the attached plan.

(r) All rubbish and waste produced in the area on the attached plan during the period of the Festival must be disposed of in the bins provided by the council and in the manner required by the Festival's waste management program. Trade waste is the responsibility of the trader.

(s) Set up of any extended trading area may commence from 6:30am and must be completed by 9:30am in readiness for a festival start at 10:00am.

(t) If the trader has engaged a party hire company to supply and set up hired items for their extended trading space they must ensure the party hire company has applied for the appropriate vehicle accreditation from the St Kilda Festival. (Vehicles without Festival Accreditation will not be permitted on to the site for set up or pack down.) These vehicles will only be able to remain onsite between 7:00am and 9:30am for Bump In and will be allowed back on site from approximately 10:30pm.

(u) The permit holder must not commence trading before the specified commencement of the Festival and must not trade beyond the specified completion time of 9:30pm.

(v) Pack down is to commence at 9:30pm at the latest and all trader equipment, including hired equipment, is to be clear of the roadway within the extended trading area by 10:00pm sharp.

(w) Any Temporary Limited Licence granted by the Victorian Commission for Gambling and Liquor Regulation for an extended trading area permitted by St Kilda Festival Management shall only be granted for the period of 10:00am to 9:00pm.

(x) Only vehicles with prior approval and accreditation from the St Kilda Festival may enter the site between 7:00am and 9:30am for the purposes of equipment delivery and again after 10:00pm for equipment collection. No vehicle access will be allowed between 9:30am and 10:00pm on Sunday the (insert date). Fines or penalties will apply.

(y) The permit holder must comply with all other statutory requirements and obligations that are applicable to the use or activity, irrespective of whether those requirements and obligations are required by this permit or not.

(z) Should a Temporary Limited Licence be granted by Victorian Commission for Gambling and Liquor Regulation for the extended trading area, the licensee shall ensure that they offer a substantial meal within their Temporary Limited Licence (Red Line) area and sufficient menu signage is visible.

(aa) Where an extended trading permit has been issued, the area identified by the map must include 1 table setting per every $3m^2$ from festival commencement to completion. One table setting is defined as one table and four chairs. The trader shall provide tables and chairs at this ratio

within their permit area to ensure that patrons are served responsibly. Patrons must be seated and encouraged to remain seated at all times whilst within the approved extended trading area.

(bb) No amplified music is permitted outside the premises, in either existing kerbside trading areas, or in the approved extended trading area. No music, band, performers or amplification may be placed within the trader's premises and faced out toward the extended trading area. All normal noise regulation requirements or Liquor Licence requirements will still apply as per normal.

(cc) No barbecues, hotplates, Bain Maries or other hot servery equipment may be used in extended trading areas.

(dd) All extended trading areas must be defined with a barrier or fence so as to clearly define the area and allow for best patron control practices.

(ee) Appropriate public amenities must be allowed for any patrons in any extended trading area. This may include the use of amenities within the trader's premises.

(ff) Any reasonable requests made or direction given by St Kilda Festival Management, St Kilda Festival appointed staff, or any emergency service organisation pertaining to the extended trading area must be followed and adhered to immediately.

(gg) Council reserves the right to direct the permit holder to display signage regarding local laws, Council communications or conditions of extended trade as required.

(hh) St Kilda Festival Management reserves the right to amend or add conditions as it deems necessary.

(ii) Your permit is deemed effective only if payment is made prior to the commencement of the St Kilda Festival. If payment has not been received prior to the commencement of the Festival, the trader will be deemed as operating without a Permit to Participate and either incur an infringement notice or may be prosecuted.

(jj) Your permitted extended trading area is as per the attached map and following size calculation:

?m x ?m = ?m2
?m2 ÷ 3 m2 = ? settings
? settings X 4 = ? seated people permitted in extended trading area.

(kk) The maximum number of patrons permitted within your extended area as per the above calculation is ?.

(ll) You are required to supply ? settings for patrons as per the above calculation.

(mm) One setting = One table and four chairs.

(nn) Official trading time: 10:00AM – 9:30PM

(oo) Expiry date of the permit if issued will be: (insert date)

17.4 Standard conditions for a St Kilda Festival Busking Permit

(a) This permit must be kept on site by the permit holder and must be produced on request to an authorised officer of the Council or St Kilda Festival staff.

(b) The level of use may only consist of the approved activity as advised in the permit.

(c) St Kilda Festival Management reserves the right to amend or add conditions as it deems necessary.

(d) Busking is defined as playing a musical instrument and/or singing, conjuring, juggling, mime, mimicry, dance, puppetry, performance art, street theatre, recitation and other appropriate theatrical and visual forms.

(e) Permits are not transferrable.

Permitted Activity

(a) An individual busking permit is required for each person engaged in any busking activity.

(b) The locations in which busking is permitted on St Kilda Festival Sunday is limited to three (3) busking pitches as depicted by the St Kilda Festival Fitzroy Street Site Manager.

(c) Busking permit holders will not receive any fees from the St Kilda Festival or City of Port Phillip for their busking performance.

(d) Permits shall not be held by persons performing on behalf of any political or religious organisation.

(e) The permit holder can only perform between the hours of 10.00AM and 9.30PM and should only perform for a continuous maximum period of twenty (20) minutes followed by no less than a forty (40) minute break.

(f) The Permit holder shall not advertise or associate themself with advertising and/or commercial branding of any nature.

(g) The Permit holder shall be courteous to other buskers and rotate performance areas in an equitable fashion to ensure all buskers wishing to use a busker's pitch get equal time through the available period in the day.

Safety and Amenity

(a) Any reasonable requests made or direction given by City of Port Phillip staff, St Kilda Festival Management, St Kilda Festival appointed staff, or

any emergency service personnel pertaining to the busking area must be followed and adhered to immediately.

(b) Buskers must respect City of Port Phillip staff, St Kilda Festival Management, St Kilda Festival appointed staff, or any emergency service personnel and must not make them a part of the Buskers act in any way or make light of any requests issued.

(c) The permit holder must not obstruct pedestrian flow or other traffic movement whilst performing.

(d) The permit holder (including the permit holder's audience) must not interfere with any St Kilda Festival programmed performance, activity, event or vendor.

(e) Persons under 16 years of age require written permission from a parent or legal guardian to participate in busking activity.

(f) A single small self-powered amplification system may be used in conjunction with the performance.

(g) No fire may be used at any time.

(h) A suitable safety distance must be in place between all Buskers performance areas and the audience and must be maintained at all times.

(i) All Buskers must not interfere with any tram infrastructure, including overhead power wires. No juggling should be conducted immediately under the tram overhead power lines and no high unicycle acts are permitted within 4m of any tram overhead power cables.

Official Duration of available busking time on St Kilda Festival, Festival Sunday: 10:00AM – 9:30PM

Expiry date of this permit: 10:00PM on the date of issue

17.5 Standard conditions for a St Kilda Festival temporary fence permit

(a) Fencing product that does not create a "cage" type effect, i.e. a pool style fence or CCB will be permitted.

(b) A clear corridor must be maintained from the existing exit doors from the premises, at the full width of the exit doors, through the outdoor trading area and out through the installed fence line.

(c) The exit widths in the fence line shall be the same as the exit widths in the building and shall be in line with the exit doors and exit egress pathways of the building.

(d) No gates shall be used in the fence line, but rather the exit openings in the fence line are managed by security guards.

(e) Any installed fence line must sit within your existing approved outdoor trading area or property boundary.

(f) No alcohol advertising or signage is permitted on any temporary installed fencing.

(g) Signage advertising (e.g. for bands and venue publicity) is permitted, providing the fence is adequately designed to support the weight and wind loading on any signage applied. Additional documentation supporting this may be requested.

(h) Existing permitted patron numbers shall be maintained at all times.

(i) The permit holder must comply with all other statutory requirements and obligations that are applicable to the use or activity, irrespective of whether those requirements and obligations required by this permit.

SAFETY AND AMENITY

(a) All approved fencing shall comply with the relevant Australian Standards for the product selected and shall be appropriate for the task at hand.

(b) All approved fencing shall be installed as per the manufacturer's recommendations and by suitably competent persons trained in the installation of the selected product.

(c) If signage, or any other wind loading materials (like shade cloth), are applied to the fence line then the fence line shall be adequately designed to handle both the additional weight and the wind loading weight and appropriate documentation detailing this must be supplied by the fencing contractor to the permit holder. This documentation may be requested by the City of Port Phillip or St Kilda Festival.

(d) Any reasonable requests made or direction given by City of Port Phillip staff, St Kilda Festival Management, St Kilda Festival appointed staff, or any emergency services organisations pertaining to the trading area must be followed and adhered to immediately.

ACCESSIBILITY

(a) The trader must not obstruct the pedestrian pathway opposite the trading site.

17.6 Standard conditions for a St Kilda Festival event permit

GENERAL CONDITIONS

This permit operates in conjunction with the Activity Agreement previously signed. All conditions on both the agreement and this permit must be abided by at all times.

Permitted Activity

PROGRAMMING DESCRIPTION

Site Management

(a) A copy of this permit must be kept on site at all times during the permitted activity, including bump in and bump out, and must be produced on request by Festival Management or any authorised Council Officer or member of the Victoria Police during the conduct of the event. Please keep this permit with you at all times while on site, including bump in and bump out.

(b) Your organisation nominates EVENT MANAGER as your official event manager and can be contacted on NUMBER.

(c) You must work in accordance with directions given by Festival Management at all times.

Sponsorship

(a) The following sponsor activity has been approved as part of ACTIVITY:

SPONSOR ACTIVITY

Infrastructure

(a) The following infrastructure has been approved as part of ACTIVITY:

INFRASTRUCTURE LIST

Schedules

(a) The following set up and pack down schedule has been approved as part of ACTIVITY:

SCHEDULE

Related Permits

(a) Any other permits required, including filming, health or otherwise, have not been issued with this permit and must be supplied separately on request.

Non-Compliance

(a) A breach of any of the conditions of this permit may result with enforcement action being taken against the permit holder and/or the organisation responsible for the event. This action may include the issuing of fines to each interested party, cancellation of the permit or with the matter being referred to the Magistrates' Court.

(b) Any enforcement action that is required in relation to this permit may affect future applications lodged by the event organiser with the St Kilda Festival or the Port Phillip City Council.

17.7 Standard conditions for a St Kilda Festival filming and photography permit

Conditions:

(a) You are prohibited from photographing or filming any emergency service agencies or organisations performing their roles or any security or emergency agency response to any matter arising in any area within the St Kilda Festival precinct.

(b) Before any activity associated with photography commences, all activities must comply with any applicable Local Laws of the City of Port Phillip and St Kilda Festival requirements.

(c) All litter and other waste produced in the area where the photography is occurring must be disposed of by the permit holder.

(d) Activities must not cause any damage to Council property including roads, open spaces, irrigation lines and St Kilda Festival infrastructure. The permit holder will bear the cost of any repairs.

(e) The permit must be carried by the permit holder at all times and must be produced to an authorised officer of Council when requested to do so. Council/St Kilda Festival are entitled to have a representative present at all times.

(f) Crew are to adhere to Festival vehicle parking regulations & instructions. No vehicles are allowed on to the Festival site.

(g) Accreditation must be worn at all times within the St Kilda Festival precinct.

(h) The St Kilda Festival/City of Port Phillip take no responsibility for the safety of equipment whilst in the Festival precinct.

(i) No major equipment allowed (no dollys/tracks/lighting rigs etc). This permit is for simple photography setups only (1 person).

(j) The images are to be supplied to the Port Phillip City Council on CD in full colour, high res jpeg format (minimum of 300 DPI) according to the following schedule:

(k) Festival Sunday photos schedule to be advised.

(l) The St Kilda Festival and Council reserve the non-exclusive right, in relation to the St Kilda Festival (including beyond the current year), to use the photographs for purposes such as the media, in public documents, promotional material, sponsorship proposals, reports and online galleries, and other similar uses at its discretion and without fees or expenses. This usage is permitted to continue for an unlimited period of time.

17.8 Standard conditions for a St Kilda Festival promotional sampling permit

GENERAL CONDITIONS:

Site Management

(a) That a copy of this permit be kept on site at all times during the event and be produced on request by any authorised Council Officer or Festival staff member during the conduct of the event.

(b) That your organisation nominates (insert name of person) as the onsite contact who can be contacted on the day of the event on mobile number: tba.

Waste Management

(a) It is your responsibility to ensure that all waste is removed from the event site and is correctly disposed of at the conclusion of the event.

Non-Compliance

(a) A breach of any of the conditions of this permit may result with enforcement action being taken against the permit holder and/or the organisation responsible for the event. This action may include the issuing of fines to each interested party, cancellation of the permit or with the matter being referred to the Magistrates' Court.

(b) Any enforcement action that is required in relation to this permit may affect future applications lodged by the event organiser with this Council.

(c) Random inspections will take place on the day.

(d) The Permit holder is responsible for the safeguarding of the public against injury from their activity on site and for maintaining the site during the conduct of the promotion in a safe condition at all times.

18. Filming

18.1 Standard conditions for a filming permit

(a) Before any activity associated with filming commences, all activities must comply with any applicable Local Laws of the Council. All other necessary consents and approvals must be obtained and all other legislative requirements must be complied with.

(b) All litter and other waste produced in the area where the filming is occurring must be disposed of by the permit holder to the satisfaction of the Council.

(c) *If litter and other waste is not cleared to the satisfaction of the Council may clear the litter and waste and charge the permit holder for the costs incurred.*

(d) Activities must not cause any damage to Council property including roads, open spaces and irrigation lines. The permit holder will bear the cost of any repairs.

(e) The permit must be kept on the site by the permit holder and must be produced to an authorised officer of Council when requested to do so. Council is entitled to have a representative present at all times.

(f) The applicant must notify the Victoria Police Film and Television Office of their activities including any intended road closures, stunt activity, and use of firearms/weapons.

(g) Before any tents or marquees are installed in Council parks or open spaces the applicant must advise and consult with Council to avoid damage being caused to Council infrastructure and assets.

(h) At least 48 hours (and preferably up to 7 days in advance for retail areas) before filming commences the permit holder must notify local traders and residents in the immediate vicinity in writing of the proposal to film and a copy of the notification must be provided to the Council.

(i) 7 days' notice must be given for reserved parking requests. Maps indicating the location and number of parking spaces required must be supplied. Assistance cannot be provided by Council staff for reserved parking in busy areas unless neighbouring traders/residents are provided with adequate notice.

18.2 Sponsorship in the form of waiver of fees is available in certain instances:

Emerging film makers, students and projects of demonstrable community benefit are eligible for a fee waiver. This support is treated as a sponsorship by the City of Port Phillip. The film maker is required to acknowledge the City of Port Phillip in the end credits of the film.

The acknowledgment will read "Filmed in the City of Port Phillip" or "Thanks to the City of Port Phillip".

Sponsorship requests must be in writing and addressed to the Coordinator Arts.

Emerging film makers are defined as:

(a) film makers recently graduated from a recognised film school, or

(b) film makers who have not gone through traditional educational institutions, and who have made no more than two films.

Fee waivers will generally only be available once and the film maker will be considered to be the producer/production company taking responsibility for the shoot.

Film makers creating unfunded films may be entitled to apply for sponsorship. Film makers in this category will need to demonstrate that the film would be of a benefit to the City of Port Phillip and its community.

18.3 Guidelines for assessing requests for film sponsorship

Among the issues considered by Council when assessing film sponsorship will include:

(a) The applicant is a student film maker.

(b) The applicant is an emerging film maker.

(c) The applicant is a local film maker, living or working regularly in the City of Port Phillip.

(d) The applicant is a local production company, or creating work of a community or cultural benefit.

(e) The project will have a low impact on residents and businesses, in particular having with no major equipment impacts or road closure impacts.

(f) The project promotes the City of Port Phillip and it businesses, communities or heritage.

(g) The applicant can demonstrate a community or cultural benefit to the City of Port Phillip.

(h) The request for sponsorship is being made at least five working days prior to any project start date, (permit commencement date), to allow for the proper consideration and review of the sponsorship request.

19. Busking, fundraising, promotional activities and street stalls

19.1 Standard Conditions for a Busking Permit

Location restrictions:

(a) The locations in which busking may be permitted is limited to local shopping strips, the Upper Esplanade and any other areas fixed by resolution of the Port Phillip Council.

(b) Busking at or around the South Melbourne Market is conditional on gaining prior approval by market management.

(c) No space allocated to the St Kilda Esplanade Market may be used by buskers without prior approval.

(d) Buskers must keep clear of entrances to shops and buildings at all times

(e) Buskers are not permitted to busk in front of or beside Bank Automated Telling Machines (ATM's).

(f) Busking during the St Kilda Festival requires a separate permit.

Limitations/Restrictions

(a) Buskers can only perform between the hours of 9.00am and 9.00pm and must only perform for a continuous maximum period of 30 minutes followed by a 10 minute break (maximum of 2 hours stationed in any one location).

(b) Busking activity which causes annoyance to shopkeepers, local residents or the general public may be terminated at the direction and/or discretion of a member of the Victoria Police or an authorised Council Officer.

(c) No nuisance may be committed. Buskers must not upset any member of public by their performance/behaviour.

(d) No obstruction to pedestrian or other traffic movement will be caused by buskers.

(e) Busking permit holders are not permitted to ask for or expect payment of any kind based on their busking performance.

(f) Buskers or their audience must not interfere in any way with an entertainment or activity approved by Council. This includes, but is not limited to, encroaching on or around any authorised street stall, market, event or promotion.

(g) Persons under 16 years of age will require written permission from a parent/guardian and will have to be accompanied by a parent/guardian when performing.

(h) The following activities are not permitted:

(i) Activities involving tobacco, gambling or alcohol promotion or advertising

(ii) Activities which are deemed illegal, or could promote violence

(iii) Activities that do not meet goals of objectives of the Council Plan

(iv) Activities that are part of an advertising campaign or advertising a product.

(v) Activities that are selling, offer or expose for sale any article or commodity.

(vi) The use of mains or battery powered electrical amplifiers are strictly prohibited other than with the written consent of Council in Bay Street Port Melbourne for the purpose of a trial period to help inform the development of the Live Music Action Plan.

(vii) The use of fire, knives, swords, chainsaws or any other dangerous instrument is prohibited under any circumstances. This includes instruments that have been modified for safety but can still be perceived as dangerous.

(viii) Permanent pavement art of any form.

General Conditions

(a) A copy of the permit must be retained at the busking site and produced for inspection upon request by Victoria Police or an authorised Council Officer

(b) All busking must comply with all local laws, conditions and requirements. Directions of members of the Victoria Police Force or authorised Officers of the Port Phillip Council must be complied with at all times.

(c) A passport-sized or similar photograph must be attached to the permit to identify the permit holder.

(d) Permits are not transferable

Notes:

(a) Busking at or around the South Melbourne Market is conditional on gaining prior approval by market management.

(i) Contact via phone: 9209 6295 or email smm@portphillip.vic.gov.au

(b) No space allocated to the St Kilda Esplanade Market may be used by buskers without prior approval.

(i) Contact the Manager St Kilda Esplanade Market via email: esplanademarket@portphillip.vic.gov.au

(c) Busking during the St Kilda Festival requires a separate permit.

(i) Please contact the festivals team by phone on 9209 6306 for information

19.2 Standard conditions for a fundraising and street stalls permit

When is a Permit Required?

(a) A permit is required in order to fundraise or have any form of street stall in Council managed open space.

(b) Property occupier's consent is required if a stall, raffle or collection is to be set up in front of a business or residence.

(c) A permit is not required if the fundraising is occurring on private property, in this case the permission of the property owner would be required.

(d) All fundraising must comply with all legislation and local laws.

Limitations/Restrictions:

Fundraising will only be permitted for the following groups:

(a) Registered charity or not for profit organisations.

(b) Local education providers.

(c) Local community groups.

Fundraising applications must be accompanied with proof of not-for-profit or DGR status. Or a letter from the not-for-profit organisation showing a partnership.

Fundraising permits will only be issued once every three (3) months for each organisation.

A maximum of two (2) locations can be permitted for the same organisation on the same day.

The following activities are not permitted:

(a) Activities that do not meet the goals or objectives of the Council Plan or Events Strategy.

(b) Fundraising or collections which request bank details as part of an ongoing donation.

Conditions:

All fundraising permits:

(a) A copy of the permit must be retained at the fundraising site and produced for inspection upon request by Victoria Police or an authorised Council Officer.

(b) All litter and rubbish emanating from or generated by the activity shall be cleared regularly and the site shall be vacated in a clean and tidy condition.

(c) No member of staff or volunteer shall harass members of the public.

(d) A 1.5m passage must be made available for pedestrians at all times.

(e) Every member of staff and/or volunteer directly participating in the activity shall wear clothing apparel or a name tag which identifies the organisation conducting the fundraising.

(f) No sign shall be placed on a building without the prior consent of the occupier.

(g) Furniture is restricted to one table no larger than 1000mm in length and 900mm in width and two (2) chairs.

(h) Serving or selling of any food product must comply with regulations.

Raffles:

Your organisation must be registered with and/or have gained approval from the VCGLR to conduct raffles if the total retail value of prizes exceeds $5,000.

Street Stalls:

Prior consent if required from any business/resident if setting up in front of an occupied property.

19.3 Designated areas for busking and fundraising activities/street stalls

(a) Designated areas for busking, fundraising activities and street stalls.

(i) Local shopping strips

(ii) In front of community centres or clubs

(iii) Reserves and gardens

(iv) Plazas

(v) Other areas as approved

20. Bulk Rubbish Containers (skip bins)

20.1 Standard conditions for a bulk rubbish container permit

(a) The location of the skip bin must comply with the requirements of VicRoads Code of Practice for the Placement of Waste Bins on Roadsides.

(b) A minimum 3 metre width must be maintained to the opposite kerb, including laneways to maintain vehicle access.

(c) The skip bin must not obstruct the passage of any pedestrian, cyclist or vehicle and must not obscure motorists' view.

(d) The skip bin must not be placed where standing or parking is prohibited.

(e) The skip bin must be placed within the street frontage of the site that it is to service.

(f) The skip bin must be placed in the parking lane, within parking bays (if marked), of the road pavement, and must be clear of footpaths, nature strips, landscaped areas, vehicle crossings, disabled parking bays, through-traffic lanes, loading zones and clear-ways.

(g) Reflective marking must be placed on each top corner and opposite ends of the skip bin in accordance with Appendix 1, VicRoads Code of Practice for the Placement of Waste Bins on Roadsides.

(h) From sunset to sunrise, flashing yellow lights must be fitted and operating on the corners of the skip bin if placed on a main arterial road, a road where the road has reduced visibility, in low-lit or unlit areas and in narrow streets.

(i) The skip bin must identify the name and contact details of the skip bin company.

(j) Material stored in the skip bin must not rot or cause offensive odours.

(k) Upon request the permit-holder must evidence public liability insurance to a minimum value of $10M.

(l) The placement or removal of the skip bin must not cause damage to Council infrastructure or community assets.

(m) Any costs for damage to Council assets resulting from the placement, occupation or removal of the skip bin will be borne by the permit-holder.

21. Occupying Market Sites

21.1 Provisions applicable to markets other than the South Melbourne Market

Where the Council operates a market (other than the South Melbourne market), it must give public notice of the hours and days of operation of each market and of any variation to the hours and the days that markets are open.

21.2 Provisions applicable to the South Melbourne Market

(a) The South Melbourne Market will be open for public use on:

(i) each Wednesday which is not a public holiday, between the hours of 8.00am and 4.00pm;

(ii) each Friday which is not a public holiday, between the hours of 8.00am and 5.00pm;

(iii) each Saturday which is not a public holiday, between the hours of 8.00am and 4.00pm;

(iv) each Sunday which is not a public holiday, between the hours of 8.00am and 4.00pm; and

(v) any other days or times that the Council or South Melbourne Market Management Committee may fix by resolution, including days or times fixed by resolution for particular groups of stalls.

(vi) any other days or times as stipulated in License arrangements for that particular location.

(b) Where the days and the times that the South Melbourne Market is open for public use are varied as above, public notice must be given of those varied times and days.

(c) The following provisions relate to the boundaries of stands in the South Melbourne Market.

(i) The licensee of any stand in the market fronting directly to the footpath on Coventry and Cecil Streets must contain all activities and uses including any display, within a line marked on the footpath which must not be more than one metre from the building line.

(ii) Where it is proposed to display goods beyond the limit specified in paragraph (a), a person must apply for a permit under the local Law No 1 (Community Amenity).

(iii) The licensee of any stand in the market fronting directly to the footpath on Coventry and Cecil Streets must ensure that a 2.3 metre clear walkway is maintained on the footpath at all times.

(iv) Any stall within the market must confine the activity or use to the boundary of the stand that is defined in any license or lease or within the confines of any other area designated by the Council.

(v) The area of a stand of a licensee not included in paragraphs (a) or (d) extends from the rear of the stand to the yellow painted line at the front of that stand.

21.3 Provisions applicable to the Esplanade Market

(a) The St Kilda Esplanade Market will be open for public use on:

(i) each Sunday, between the hours of 10.00am and 5.00pm (daylight savings hours) and,

(ii) 10:00am to 4:00pm (non-day light savings hours)

(iii) except for the second Sunday in February due to St Kilda Festival

(iv) each Sunday Between 7.00 am and 7.00 pm on Sundays during the trading period which includes the set up and take down of stalls.

(v) or such hours as the Market Manager may determine from time to time in its sole discretion.

Market Management

1. From time to time Port Phillip City Council may prescribe reasonable rules, which are not inconsistent with the Permit, for the safety and proper management of the Market (Market Rules). The Permit Holder must observe any Market Rules of which the permit holder has received notice. A breach of the Market Rules is a breach of the Permit.

2. From time to time Port Phillip City Council may appoint a person or company to act as Manager of the Market or to assist in the management of the Market. On behalf of Port Phillip City Council, the Market Manager or any appointee, may carry out any obligations and exercise any rights of the Port Phillip City Council pursuant to the Permit.

3. A Permit may be terminated by notice if the Permit Holder breaches any permit condition and does not remedy the breach within 7 days after receiving written notice from the Market Manager.

4. The permit may be terminated immediately and at any time by Port Phillip City Council due to any breaches of the permit conditions.

5. No compensation is payable by Port Phillip City Council in respect of the cancellation of the permit under these condition.

6. The Permit Holder acknowledges and agrees that:

(a) the permit is only valid when payment has been received;

(b) the permit is not transferable to other parties;

(c) the permit cannot be sold or offered for sale;

(d) the Permit Holder only sell goods approved by the application and selection process approval;

(e) the Permit holder must abide by the permit terms and conditions at all times;

(f) the Permit Holder must make the permit available for inspection by the Market Manager or Port Phillip City Council representative upon demand at all times when the Permit Holder is open for trade;

(g) stalls at the Market are marked with white lines defining the stallholders' spaces. A stallholder must not obstruct or otherwise interfere with access to neighbouring sites;

(h) the Market is operational during the market trading hours each Sunday of the year, except for the second Sunday in February (St Kilda Festival Day) no credit or refund offered for this non trading day;

(i) the Permit Holder must not cause a disturbance at the Market;

(j) the Permit Holder may not shout or cry their wares (spruik);

(k) the Permit Holder must not obstruct any designated vehicle, pedestrian or bicycle pathways at the Market;

(l) any dog of the Permit Holder must be on a lead and under control at all times;

(m) allocated parking is not provided to or reserved for stallholders, and the Permit Holder must observe all parking signs; and

(n) The Permit Holder must not park on the footpath. A breach of any parking sign; parking legislation or Local Law can result in permit termination. No compensation is payable by Port Phillip City Council in respect of the cancellation of this permit under this condition;

(o) The Permit Holder must adhere to all Occupational Health and Safety requirements, standards and legislation at all times;

(p) The Permit Holder must adhere to the Market's Emergency Procedures at all times;

(q) Food traders will be required to lodge a Statement of Trade at least 5 days prior to trading dates via Streatrader streatrader.health.vic.gov.au;

(r) Food traders must adhere to extra requirements attached to their permits

(s) The permit may be revised at anytime by Port Phillip City Council and may include changes to accord with Council policy and strategies as amened from time to time.

(t) Bookings are considered confirmed upon email request for dates and are not transferable;

(u) once invoiced there is no change/refund/ cancellation or credit offered to requested dates

(v) Permit fees may incur an annual increase as per Port Phillip City Council Budget approval process mid calendar year.

22. Connecting into Council Drains

Please refer to subsection 73 for delegations in relation to this clause.

23. Keeping Excess Animals

23.1 Excess animals

The following animals are allowed to be housed without a permit. Housing of more animals than stated would require a multiple animal permit, available for download from the City of Port Phillip web site.

Permitted Animals and Birds on Properties

Type of Animal	Houses Maximum Allowed	Units/Townhouses/ Flats Maximum Allowed
Birds	5	2
Dogs (over six (6) months old)	2	1
Dogs (under six (6) months old)	4	1
Cats (over three (3) months old)	2	1
Cats (under three (3) months old)	4	1
Poultry	5	0

23.2 Standard conditions for a multiple animal permit

(a) Poultry or animal housing or a similar structure must be located on the property so that the amenity of the area or other premises is not affected by nuisance, noise or odour experienced because of proximity of the poultry or animal housing.

(b) An owner or occupier must not construct or use any poultry or animal housing on any property unless it has adequate roofing, drainage, is rat proof and has a floor paved with impervious material.

(c) All poultry and animal housing must be maintained so that it does not cause a nuisance or offensive conditions or harbour vermin.

24. Asset Protection Permit

Please refer to sub-section 73 for delegations with respect to this clause.

25. Clothing Recycling Bins

Please refer to sub-section 73 for delegations with respect to this clause.

26. Outdoor Commercial Recreational Activities

Please refer to sub-section 73 for delegations with respect to this clause.

27. Hot Air Balloons and Sky Diving

Please refer to sub-section 73 for delegations with respect to this clause.

28. Inflatable Displays on Foreshore or Beaches

Please refer to sub-section 73 for delegations with respect to this clause.

29. Fireworks

Please refer to sub-section 73 for delegations with respect to this clause.

29A. Heavy Vehicles

Please refer to sub-section 73 for delegations with respect to this clause.

PART 3 – CONDITIONAL ACTIVITIES AND USES

This section includes the procedures involved in managing potential nuisance, uses and activities.

30. Offences.

Please refer to sub-section 73 for delegations with respect to this clause.

31. Managing Amenity on Building Sites.

31.1 Management measures to be complied with

The builder must comply with the following measures in managing a building site:

(a) Stormwater Management

(i) retention of stormwater on the site (wherever possible) for connection to the stormwater system; and

(ii) prevention of sediment from polluting stormwater discharges and entering the sewerage system.

(b) Protection of the environment and vegetation

(i) preservation of grass and vegetation, especially on the perimeters of the building site;

(ii) minimisation of work of slopes, along streams and environmentally sensitive areas;

(iii) minimisation soil exposure and revegetating as soon as practicable; and

(iv) removal of excess soil from the building site as soon as practicable.

(c) Site access and access roads

(i) minimisation of dust or mud from road surfaces; and

(ii) cleaning from falling onto the roads.

(d) Excavations

(i) reinstatement of trenches as soon as pipes or cables are laid;

(ii) cleaning of roads during excavation works; and

(iii) protection of stormwater entry pits close to roadworks.

(e) Stockpiles and batters

(i) positioning of stockpiles away from drainage flows; and

(ii) no placement of stockpiles on roads (unless a permit under the Local Law No.1 (Community Amenity) has been obtained).

(f) Noise Control

(i) compliance with the operating hours prescribed in the Local Law No.1 (Community Amenity);

(ii) permitting deliveries to the site only during operating hours prescribed in the Local Law No.1 (Community Amenity);

(iii) use of equipment with the lowest possible noise rating and best practice silencing technology wherever possible;

(iv) use of noiseless pile drivers wherever possible or boring of holes before insetting piles; and

(v) regular servicing of vehicles and generators, and no idling of trucks in area close to residences.

(g) Waste Management

(i) containment of litter from the building site is a container kept on the building site;

(ii) immediate cleaning of spills and prevention of paint residues or other liquid wastes from entering the stormwater system or soaking into the ground;

(iii) provision of a dedicated chemical storage area;

(iv) containment or filtration of run off pressure cleaning and brick, tile or pavement cutting;

(v) recycling wherever possible and sending waste which is not recyclable to landfills; and

(vi) containment of waste from concrete deliveries on the site or on the truck.

(h) Contaminated Soil

(i) testing of soil for contamination and evidence of old fill material or previous industrial use prior to any works commencing; and

(ii) compliance with EPA Guidelines on the management and containment of soils.

(i) Outside the Site

(i) no hosing of litter into drains;

(ii) daily inspection and cleaning of roads and gutters around the site;

(iii) minimisation of dust from the site; and

(iv) keeping of all equipment and material used in association with the building work on the building site unless a permit under the Local Law No.1 (Community Amenity) has been obtained.

31.2 Standard conditions for permit to conduct out of hours building works

(a) The permit-holder must provide a minimum of 2 business days written notification to the occupants of all adjacent and affected premises within a 25m radius of the location of works. If a notification list has been provided all addresses must also be included. The notification must include the following information and a copy forwarded to the Coordinator City Permits:-

(i) The date and hours of works occurring under this permit

(ii) The nature of works to be performed

(iii) The licence reference

(iv) Contact name and phone number for the permit-holder and/or site manager

(b) This permit does not authorise any other construction works to occur other than those described above.

(c) This permit does not override the requirements of the Environment Protection Act Regulations.

31.3 Building site management record

Issue	Requirements	Audit Frequency	Date	Result ✓or x	Details of problems detected	Remedial Action Taken
Stormwater Management	stormwater not ponding or causing a nuisance sediment not polluting stormwater or entering the sewer	daily during heavy rainfall				

Issue	Requirements	Audit Frequency	Date	Result ✓or x	Details of problems detected	Remedial Action Taken
Protection of the environment and vegetation	grass, vegetation and trees especially on the perimeters of the building site not being damaged excess soil is removed from the building site as soon as practicable	weekly after excavations				
Site access and access roads	dust or mud from road surfaces is minimised the tyres of vehicle exiting the site are cleaned to prevent litter from falling onto the roads	Daily Daily				
Excavations	trenches are reinstated as soon as pipes or cables are laid roads are kept clean during excavation works stormwater entry pits close to roadworks are not polluted	as required as required weekly				
Stockpiles and batters	stockpiles are not placed on roads (unless a permit under the Local Law No.1 (Community Amenity) has been obtained)	weekly				

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Issue	Requirements	Audit Frequency	Date	Result ✓or x	Details of problems detected	Remedial Action Taken
Noise Control	operating hours prescribed in the Local Law No.1 (Community Amenity) are complied with	daily				
	deliveries to the site are limited to normal working hours	daily				
	equipment with the lowest possible noise rating and best practice silencing technology is used wherever possible	at beginning of project and during pile driving				
Waste Management	litter from building sites is properly stored in container(s) on the building site	daily				
	proper sanitary facilities are provided and maintained on site	daily				
	a dedicated chemical storage area is provided and chemicals properly stored	daily				
	recycling containers are provided recyclable materials are not sent to landfill	daily				

Issue	Requirements	Audit Frequency	Date	Result ✓or x	Details of problems detected	Remedial Action Taken
Contaminated soil	the site is tested for contaminated soil and evidence of old fill material or previous industrial use is obtained prior to the works commencing EPA Guidelines on the management of contaminated soils are followed	prior to works commencing				
Outside the Site	litter is not hosed into drains dust from the site is minimised roads and gutters around the site are inspected daily and cleaned all equipment and materials used in association with the building work is being stored on the building site (unless a permit under the Local Law No.1 (Community Amenity) has been obtained)	daily daily daily daily				

31A. Requirement for Fencing.

This section is intentionally blank.

32. Building Works on a Dwelling.

This section is intentionally blank.

33. Protection of Council Assets

This section is intentionally blank.

34. General Requirements Applying to Industrial, Trade and Commercial Waste.

34.1 Guidelines for assessment of detrimental amenity impacts

In considering whether a commercial premises is causing a nuisance or detrimentally affecting the amenity of an area, an authorized officer must consider the following guidelines:

(a) Recyclable materials such as bottles, cardboard and cooking oils must be adequately stored so that:

(i) they cannot be interfered with by unauthorised persons;

(ii) cannot escape beyond the premises on which they are stored;

(iii) Cardboard or boxes must be placed for collection secured or tied in a bundle so that they cannot escape from the collection site.

(b) Crates and other returnable delivery containers must be kept on the premises and stored until they are returned to the owner.

(c) Waste must not be:

(i) discharged, emptied or disposed of in any way onto any road or into a drain;

(ii) burned or incinerated; and

(iii) left for collection on the roadside where it comprises hazardous waste as defined in the Environment Protection Act.

(d) Noise and emissions

The owner or occupier of commercial premises must ensure that:

(i) any motors used in equipment in the commercial premises are properly baffled, insulated or located so as to control noise; and

(ii) mechanical ventilation systems are regularly inspected and maintained and that a record of inspection can be provided to an authorised officer on request; and

(iii) deliveries and pickups of goods and equipment does not affect the amenity of the area because of the time and manner in which the activities occur.

(e) The owner or occupier of commercial premises should ensure that any equipment used in the commercial premises from which gas emissions may occur is regularly serviced and maintained in accordance with the relevant Australian Standard and that a record of inspection can be provided to an authorised officer on request.

(f) Any stormwater drainage connection from the commercial premises must be regularly maintained and kept free from blockages.

34.2 Commercial waste collection designated areas

Collection of waste materials is prohibited under clause 35 of the Local Law No.1 (Community Amenity), between the hours of 8pm and 7am Monday to Friday and 8pm to 9am on Saturday and Sunday:

(a) Alfred Street, Balaclava

(b) Queens Lane, Melbourne

(c) Fawkner Street, St Kilda

34.3 Delegations

Please refer to sub-section 73 for list of delegations with respect to this clause.

35. Additional Requirements Applying to Commercial Premises.

Please refer to sub-section 34 above.

36. Domestic Waste and Recyclable Materials.

This section is intentionally blank.

37. Audible Intruder Alarms.

37.1 Any form of audible intruder alarm which emits a noise audible beyond the boundary of the Property on which it is installed is in breach of this local law unless the alarm is so constructed or regulated to ensure that:

(a) Whenever a detection device is activated the Audible Intruder Alarm is automatically rendered inaudible beyond the boundary of the Urban Premises within five (5) minutes of being activated; and

(b) The Audible Intruder Alarm cannot reactivate following the operation of that single detection device until the alarm condition has been manually reset.

37.2 Despite Guideline (37.1) above, an Audible Intruder Alarm may operate for a further period of five (5) minutes following the cessation of the Alarm in accordance with Guideline (1)(a), provided the alarm is activated by a different detection device.

38. The Location of Trees, Plants and Signs.

This section is intentionally blank.

39. Display of Property Numbers

This section is intentionally blank.

40. Vehicle Crossings

This section is intentionally blank.

41. Residential Parking

This section is intentionally blank.

42. Grand Prix Parking

This section is intentionally blank.

43. Parking Offences

This section is intentionally blank.

44. Significant Trees

This section is intentionally blank.

45. Use of Council Reserves

This section is intentionally blank.

46. Maintenance of Storm Water Pipes

This section is intentionally blank.

46A. Ground Table Water Management

This section is intentionally blank.

PART 4 – PROCEDURE FOR MANAGING ACTIVITIES AND USES NOT PERMITTED.

47. Designated Trading Sites

47.1 Trading sites

(a) Dandenong Road adjacent to Alma Park - Florist

(b) Elwood Foreshore - Food Van

(c) Point Ormond Foreshore - Food Van

48. Repair of Vehicles

This section is intentionally blank.

49. Interfering with Council assets

This section is intentionally blank.

50. Damage from Adjoining Properties

This section is intentionally blank.

51. Repair Any Damage

This section is intentionally blank.

52. Behaviour on Council Land

This section is intentionally blank.

53. Camping on Council Land

This section is intentionally blank.

54. Alcohol Free Designated Areas

54.1 Unsealed containers of alcohol and the consumption of alcohol in public are prohibited in the following areas:

(a) On all roads (including footpaths) throughout the whole of the municipal district at all times.

(b) On council land, throughout the whole of the municipal district between the hours of 8pm and 12 noon the following day.

(c) At St Kilda Skate Park, Marine Parade, St Kilda, between 12 noon and 8pm each day.

(d) The St Kilda foreshore precinct from 12.01 am on 1 November to 11.59 pm on 31 March each year.

Note: The St Kilda foreshore precinct is defined as waters and Crown land within the municipal boundary up to the adjoining road, and includes all beaches, reserves, park land and car park from Langridge Street, Middle Park to Thackeray Street, Elwood.

(e) Public places (other than licensed premises within the meaning of the Liquor Control Reform Act 1998) within the whole of the municipal district for the period from 8 pm on 30 December until 12 noon on 2 January each year (New Year's Period).

(f) Public places (other than licensed premises within the meaning of the Liquor Control Reform Act 1998) within the whole of the municipal district on 26 January between the hours of 12.01 am and 11.59 pm each year (Australia Day).

(g) Public places (other than licensed premises within the meaning of the Liquor Control Reform Act 1998) within the whole of the municipal district on 25 January 2020 between the hours of 12.01 am and 11.59 pm.

(h) The St Kilda Festival precinct between 9 am and 12 midnight on each day(s) of the festival.

Note: The St Kilda precinct is that area being from the foreshore along Thackeray Street to Barkly Street, along Barkly Street to Fitzroy Street, along Fitzroy Street to Canterbury Road, along Canterbury Road to Cowderoy Street then down Cowderoy Street to the foreshore, including the beach.

(i) The Australian Formula 1 Grand Prix local access area for the period of the Grand Prix as defined in the Australian Grands Prix Act 1994 – from midnight on the Monday preceding the Grand Prix to midnight on the Monday after the Grand Prix.

54.2 Sealed containers of alcohol in public are prohibited in the following areas:

(a) New Year's Eve for the period from 8pm on 30 December until 12 noon on 2 January in any year, no sealed containers of alcohol can be carried or possessed in the following areas along the foreshore:

(i) North of Head Street, Elwood and South of Ormond Esplanade between St Kilda Street, Elwood and Glen Huntly Road, Elwood;

(ii) West of Marine Parade between Glen Huntly Road, Elwood and Shakespeare Grove, St Kilda;

(iii) West of Jacka Boulevard, St Kilda between Shakespeare Grove and Fitzroy Street;

(iv) West of Beaconsfield Parade between Fitzroy Street, St Kilda and Esplanade East, Port Melbourne;

(v) West of Beach Street between Esplanade East, Port Melbourne and Princes Street, Port Melbourne;

(vi) South of Waterfront Place, Port Melbourne, between the Port of Melbourne Authority and Princes Street, Port Melbourne;

(vii) South of Beach Street, Port Melbourne, between Princes Street and Beacon Cove; and

(viii) South of the Boulevard, Port Melbourne, between Beacon Cove and Todd Road

55. No smoking in smoke free areas.

Please refer to sub clause 73 with respect to delegations in this sub clause.

56. Use of boats and other water crafts.

56.1 Delegations

Please refer to section 73 with respect to delegations.

56.2 Areas designated for launching water craft.

(a) Personal Watercraft:

St. Kilda Marina launching ramp or any other area that is signposted for the purpose.

(b) Sailboards or Kite Surfing:

any area signposted for the purpose

57. Dangerous or Unsightly Land

This section is intentionally blank.

58. Incinerators, Fires and Open Air Burning

This section is intentionally blank.

59. Animal Litter

This section is intentionally blank.

60. Shopping Trolleys

60.1 Shopping trolley procedure

Process to be followed where shopping trolley left on road or Council land:

(a) All premises which provide shopping trolleys are required to have a coin deposit mechanism or a perimeter constraint system installed on any shopping trolleys provided at their premises by 1 July 2018.

(b) Any premises which provides shopping trolleys for customer use must ensure that the name of the store is clearly marked on the trolley and is accompanied by a message to customers about their responsibility to return the trolley to a proper collection point.

(c) Where a shopping trolley has been left on a road or Council land, the proprietor of the premises identified on the shopping trolley shall be notified and given a reasonable opportunity to recover the trolley, unless the shopping trolley or its location poses a danger to the users of the road or the Council land.

(d) If, following notification, the proprietor does not recover the shopping trolley in question within a reasonable period of time, an authorised officer may impound that shopping trolley.

(e) Council may enter into agreements for handling shopping trolleys

(f) The Council and the proprietor of any premises which provides shopping trolleys, or a body that represents such proprietors, may agree on a process for the handling and collection of shopping trolleys left on roads or Council land which may be contained in a Code or guidelines adopted by both of them or in a written agreement between them.

(g) Where Council enters into an agreement under sub-clause (e), an authorised officer must comply with the terms of that agreement in exercising any powers under this clause.

(h) Where a shopping trolley that has been left on a road or Council land contains the personal belongings of a person who is homeless, an authorised officer must take all reasonable steps to ensure that those belongings are removed for safe keeping and returned to the owner.

61. Horse riding on Council Land

This section is intentionally blank.

62. Glass and Sharp Objects on Beach

This section is intentionally blank.

62A Glass Free Areas

62A.1 Delegations

Please refer to sub clause 73 for delegations.

62A.2 Designated glass free areas

In accordance with Clause 62A(1)(b) the following areas are designated glass free areas:

(a) For the period from 9.00 am on Friday 5 January 2018 to 11:59 pm on Tuesday 3 April 2018 in the following areas within the City of Port Phillip:

1. St Kilda Foreshore precinct from West Beach to Marina Reserve as defined by the line along:

   (i) Beaconsfield Parade between Langridge Street and Fitzroy Street;

   (ii) Jacka Boulevard between Fitzroy Street and Shakespeare Grove;

   (iii) Marine Parade between Shakespeare Grove and Wordsworth Street;

   (iv) West in a line on the southern boundary of Marina Reserve to the low water mark;

   (v) North in a line on the low water mark between Marina Reserve to parallel with Langridge Street;

(b) From 1 July 2018 at 12.01am in the following areas within the City of Port Phillip:

1. St Kilda Foreshore including beaches, reserves and parkland from Elwood to Port Melbourne and between the water and State Route 33 (comprising Ormond Esplanade, Marine Parade, Jacka Boulevard, Beaconsfield Parade and Beach Street).

PART 5 – ADMINISTRATION AND ENFORCEMENT

63. Applying for a Permit

Please refer to Section 73 for delegations with respect to this clause.

63.1 Application for a permit

CLAUSE 63

An application for a permit under the Local Law No.1 (Community Amenity) must contain the following information:

(a) Name of applicant

(b) Address of applicant

(c) Contact phone number for applicant during business hours

(d) Type of permit sought

(e) Description of use or activity

(f) Where required, evidence of owner's consent, if applicant is not the owner

(g) Where required, evidence of other necessary permits or consents required by the Local Law No.1 (Community Amenity)

(h) Where required evidence of current liability insurance cover

(i) Any other information required by the Local Law No.1 (Community Amenity)

(j) Any other information required by the Council.

In addition, an application for a permit must be accompanied by the relevant fee.

64. Fees and Charges

Please refer to sub-section 73 with respect to delegations for this clause.

65. Issue of Permits

65.1 Sample permit content

PORT PHILLIP CITY COUNCIL LOCAL LAW NO.1 (COMMUNITY AMENITY)

PERMIT (number) CLAUSE 65

Name of person granted permit

Address

Use of activity authorised by Permit :

Address where activity or use will be carried out:

In addition to complying with any relevant requirements in the Local Law No.1, Community Amenity the following conditions apply to the activity or use:

Expiry date of permit:

Name of authorised officer:

Signature:

Date:

66. Duration of Permits

This section is intentionally blank.

67. Conditional Permits

Please refer to sub-section 73 with respect to delegations for this clause.

68. Cancellation of Permits

Please refer to sub-section 73 with respect to delegations for this clause.

69. Correction of permits

Please refer to sub-section 73 with respect to delegations for this clause.

70. Registers

Please refer to sub-section 73 with respect to delegations for this clause.

71. Exemption

Please refer to sub-section 73 with respect to delegations for this clause.

72. Offences

This section is intentionally blank.

73. Delegations

73.1 Delegations

In accordance with Clause 73 of the City of Port Phillip Local Law No.1 (Community Amenity) the following delegations apply to the following members of Council staff who hold (or are acting) in the following positions:

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Clause	Power delegated	Delegate	Conditions and limitations
10(2) Footpath Activities Permit	Power to grant permit	- Coordinator City Permits - Footpath Trading Administrator - City Permits Authorised Officer - Operations Coordinator South Melbourne Market	Subject to the requirements of Clause 9 (3) Operations Coordinator South Melbourne Market for the footpaths of York Street, Cecil Street and Coventry Street to the extent that they adjoin the South Melbourne Market
10(3) Footpath Activities	Requirement to provide registration sticker	- Coordinator City Permits - Footpath Trading Administrator - City Permits Authorised Officer - Operations Coordinator South Melbourne Market	Subject to the requirements of Clause 9 (3) Operations Coordinator South Melbourne Market for the footpaths of York Street, Cecil Street and Coventry Street to the extent that they adjoin the South Melbourne Market
11(1) Advertising Sign Permit	Power to grant a permit	Real Estate Pointer Boards: - Coordinator City Permits - Team Leader City Permits - City Permits Authorised Officer Other: - Coordinator Events	Subject to the requirements of Clause 9 (3)

		- Event Adviser - Event Support Officer	
11(3) Community Advertising	Power to grant approval for advertising signage	- Coordinator Events - Event Adviser - Event Support Officer Was Coordinator Recreation	Subject to the requirements of Clause 9 (3)
11(6) Advertising & Community Advertising Signage	Power to designate exemptions for certain advertising signs or areas where advertising signs are permitted or limited	- Coordinator Events - Event Adviser - Event Support Officer Was Coordinator City Permits and Coordinator Recreation	Subject to the requirements of Clause 9 (3) Designated areas to be advertised in government gazette.
12(1) Itinerant Trading	Power to grant permit	Annual Mobile Food Vehicle Permits - Coordinator City Permits - Footpath Trading Administrator Other: - Coordinator Recreation	Subject to the requirements of Clause 9 (3) Implement a communication campaign to advise the community of the changes.
12(2) Itinerant Trading	Power to designate trading sites	- Coordinator Major Events & Activations for markets (excluding South Melbourne Market) or Acland Street Plaza - Footpath Trading Administrator	Subject to the requirements of Clause 9 (3) Implement a communication campaign to advise the community of the changes.

13(1) Itinerant trading from house to house	Power to grant a permit	- Footpath Trading Administrator - Coordinator Economic Development	Subject to the requirements of Clause 9 (3) Implement a communication campaign to advise the community of the changes.
14(1)Occupation of roads	Power to grant a permit	- Coordinator City Permits - Team Leader City Permits - City Permits Authorised Officer	Subject to the requirements of Clause 9 (3)
15(1) – Special events	Power to grant a permit	- Coordinator Events - Event Adviser - Event Support Officer - Coordinator Meetings and Events	Subject to the requirements of Clause 9 (3)
15(3)(a)&(b) – Special Events	Power to require additional applications for permits for extended street trading and liquor licenses	- Coordinator Events - Event Adviser - Event Support Officer Was Coordinator Recreation	Subject to the requirements of Clause 9 (3)
15(5) – Special Events	Power to apply revised parking restrictions for period of special event	- Coordinator Transport Safety Engineering (where TMP is required) - Events Coordinator (where no TMP is required)	Subject to the requirements of Clause 9 (3)
16(1)- Street Parties	Power to provide written consent required to hold a street party	- Coordinator Community Development Was Coordinator Transport, Safety and Engineering	Subject to the requirements of Clause 9 (3)
16(2) –Street Parties	Power to impose conditions for street party	- Coordinator Community Development	Subject to the requirements of Clause 9 (3)

		Was Coordinator Transport, Safety and Engineering	
17(1) – St Kilda Festival Activities	Power to grant permit for activities in the St Kilda precinct during the St Kilda Festival	- Coordinator of Festivals	Subject to the requirements of Clause 9 (3)
18(1) – Filming on Council controlled land	Power to grant a permit	- Coordinator of Arts - Arts Team Leader - Arts Administrator -Art Development Officer	Subject to the requirements of Clause 9 (3)
19(1) – Busking, Fundraising and Promotional Activities	Power to grant a permit	- Coordinator Events - Event Adviser - Event Support Officer Was Coordinator Events	Subject to the requirements of Clause 9 (3)
19(3) – Busking, Fundraising and Promotional Activities	Power to designate area for busking, fund raising activity or promotional activity	- Coordinator Events - Event Adviser - Event Support Officer Was Coordinator Recreation	Subject to the requirements of Clause 9 (3) Designated areas must be signed and changes to areas advertised in government gazette.
20(2)- Bulk Rubbish Containers	Power to grant permit for bulk rubbish containers skip bins	- City Permits Authorised Officer Was Coordinator City Permits	Subject to the requirements of Clause 9 (3)
21(2)-Market Sites	Power to allocate market sites	- Manager Arts & Culture - St Kilda Esplanade Market Manager - Manager Public Space - Coordinator Festivals	Subject to the requirements of Clause 9 (3)

		- Coordinator Events - Events Adviser Was Coordinator of Recreation	
22(1) – connecting into Council drains	Power to grant a permit	Coordinator City Permits	Subject to the requirements of Clause 9 (3)
23(1) – Keeping excess animals	Power to grant a permit	Coordinator Local Laws and Animal Management	Subject to the requirements of Clause 9 (3)
24(1)- Asset Protection	Power to grant a permit for Asset Protection	- City Permits Authorised Officer	Subject to the requirements of Clause 9 (3)
24(3)-Asset Protection	Power to set security bond	- Asset Protection Officer - Coordinator City Permits	Subject to the requirements of Clause 9 (3)
24(4)(a)-Asset Protection	Power to retain security bond to carry out repairs to public assets	- Asset Protection Officer	Subject to the requirements of Clause 9 (3)
24(4)(b)- Asset Protection	Power to determine damage caused or repaired to council satisfaction	- Asset Protection Officer	Subject to the requirements of Clause 9 (3) Only after consultation with Asset Management
24(5)- Asset Protection	Power to accept alternative form of security bond	- Asset Protection Officer - City Permits Authorised Officer	Subject to the requirements of Clause 9 (3)
25(1)- Clothing Recycle Bins	Power to grant permit	- Coordinator City Permits - Team Leader City Permits	Subject to the requirements of Clause 9 (3)

26(1) – Outdoor commercial recreational activities	Power to grant a permit	- Coordinator Recreation - Sport and Recreation Participation Officer Was Events Adviser	Subject to the requirements of Clause 9 (3)
27(1)(2) – Hot air balloons and skydiving	Power to grant a permit	- Sport & Recreation Liaison Officer	Subject to the requirements of Clause 9 (3)
28(1) – Inflatable displays on foreshore or beaches	Power to grant a permit	- Coordinator Events - Events Adviser - Events Support Officer	Subject to the requirements of Clause 9 (3)
29 - Fireworks	Power to grant a permit	- Coordinator Events - Events Adviser	Subject to the requirements of Clause 9 (3)
29A – Heavy Vehicles	Power to grant a permit	- Coordinator Parking Enforcement - Team Leader People and Process	Subject to the requirements of Clause 9 (3)
31(6) –Building Sites	Power to grant a permit	- Coordinator City Permits	Subject to the requirements of Clause 9 (3)
31(12)-Building Sites	Power to inspect a building site at any reasonable time	- Local Laws Authorised Officer	Subject to the requirements of Clause 9 (3)
31(15)(a)-Building Sites	Power to approve the provision of a refuse facility	- Local Laws Authorised Officer	Subject to the requirements of Clause 9 (3)
31(19)-Building Sites	Power to inspect for damage	- Local Laws Authorised Officer	Subject to the requirements of Clause 9 (3)
33(2)- Council Assets	Power to inspect council assets	- Asset Protection Officer - Local Laws Authorised Officer - Asset Inspection Officer	Subject to the requirements of Clause 9 (3)

33(3)- Council Assets	Power to determine satisfactory standard of repair	- Asset Protection Officer - Asset Inspection Officer Was Local Laws Officer	Subject to the requirements of Clause 9 (3)
33(4)-Council Assets	Power to repair damage to council assets and deduct from security bond	- Asset Protection Officer - Asset Inspection Officer Was Local Laws Officer	Subject to the requirements of Clause 9 (3)
34(2)- Industrial Trade and Commercial Waste	Power to designate areas to restrict commercial waste collection	- Manager Safety & Amenity - Coordinator Local Laws & Animal Management	Subject to the requirements of Clause 9 (3) Designated areas must be signed and changes to areas advertised in government gazette.
34(4)(a)- Industrial Trade and Commercial Waste	Power to approve placement of a commercial bin on Council land in accordance with the Procedures Manual	- Coordinator Local Laws & Animal Management	Subject to the requirements of Clause 9 (3) Approval must be in writing
35(2)- Commercial Premises Requirements	Power to determine whether amenity of neighbourhood affected	- Local Laws Authorised Officer	Subject to the requirements of Clause 9 (3)
35(9)- Commercial Premises Requirements	Power to require waste management plan	- Local Laws Authorised Officer	Subject to the requirements of Clause 9 (3)
36(1)(a)- Domestic Waste	Power to determine collection days of domestic waste	- Coordinator Waste Management Services	Subject to the requirements of Clause 9 (3)

36(1)(c)- Domestic Waste	Power to authorise alternative location for collection of bins	- Coordinator Waste Management Services	Subject to the requirements of Clause 9 (3) Approval must be in writing
36(1)(e)- Domestic Waste	Power to determine method of collection of green waste or hard garbage	- Coordinator Waste Management Services	Subject to the requirements of Clause 9 (3)
40(1)- Vehicle Crossings	Power to grant a permit	- Coordinator City Permits	Subject to the requirements of Clause 9 (3)
40(2)- Vehicle Crossings	Power to require construction or repair of vehicle crossing	- Local Laws Authorised Officer - Asset Protection Officer - Asset Inspection Officer	Subject to the requirements of Clause 9 (3)
40(4)- Vehicle Crossings	Power to direct removal, reinstatement or repair of vehicle crossing	- Local Laws Authorised Officer - Asset Protection Officer - Asset Inspection Officer	Subject to the requirements of Clause 9 (3)
40(6)- Vehicle Crossings	Power to inspect work related to vehicle crossing	- Local Laws Authorised Officer - Asset Protection Officer - Asset Inspection Officer	Subject to the requirements of Clause 9 (3)
42(8)- Grand Prix Parking	Power to exempt persons	- Manager Sustainability - Coordinator Transport Safety Engineering	Subject to the requirements of Clause 9 (3)
44(4)- Significant Trees	Power to issue a permit	- Coordinator City Permits	Subject to the requirements of Clause 9 (3)
54(1)(2) – Consumption of Alcohol	Power to designate 'alcohol designated areas'	- Chief Executive Officer	Subject to the requirements of Clause 9 (3)

		- General Manager Infrastructure and Amenity	Implement a communication campaign to advise the community of the changes. Changes to areas advertised in government gazette.
55(4)- Smoke Free Areas	Power to designate smoke free area	- Chief Executive Officer - General Manager Infrastructure and Amenity By Council Resolution	Subject to the requirements of Clause 9 (3) Implement a communication campaign to advise the community of the changes. Changes to areas advertised in government gazette.
55(6)- Smoke Free Areas	Power to erect no smoking signage in designated smoke free area	- Manager Safety & Amenity - Coordinator Local Laws & Animal Management	Subject to the requirements of Clause 9 (3)
56(3)- Boats & Other Watercraft	Power to designate areas for launch or transfer of personal watercraft	- Manager Public Space	Subject to the requirements of Clause 9 (3) Designated areas must be signed and changes to areas advertised in government gazette.
60(2)- Shopping Trolleys	Power to agree on process for the handling and collection of shopping trolleys	- Coordinator Local Laws & Animal Management	Subject to the requirements of Clause 9 (3)
61 – Horse riding on Council land	Power to issue a permit	- Coordinator Events - Events Adviser	Subject to the requirements of Clause 9 (3)

Attachment 9 - Port Phillip - Updated-procedures-and-protocols-manual

		- Events Support Officer	
62A (1) – further designated glass free areas	Power to designate glass free area	- Chief Executive Officer - General Manager Infrastructure and Amenity	Subject to the requirements of Clause 9 (3) Designated areas must be signed and changes to areas advertised in government gazette.
63(3) –General Permits	Power to require a person making an application for a permit to give public notice	- City Permits Authorised Officer - Coordinator Events - Events Adviser - Events Support Officer Was General Manager, Place, Strategy and Development; Manager City Development; General Manager Infrastructure and Amenity	Subject to the requirements of Clause 9 (3)
64(3)- General Permits	Power to waive, reduce or alter a fee or charge with or without conditions	- General Manager Place Strategy and Development - Manager City Development - General Manager Infrastructure and Amenity - Coordinator Events - Events Adviser - Events Support Officer	Subject to the requirements of Clause 9 (3)
65(1)- General Permits	Power to issue a permit	- City Permits Authorised Officer	Subject to the requirements of Clause 9 (3)

65(2)- General Permits	Power to refuse to issue a permit	- City Permits Authorised Officer	Subject to the requirements of Clause 9 (3)
67(2)- General Permits	Power to issue a permit with standard conditions	- City Permits Authorised Officer	Subject to the requirements of Clause 9 (3)
67(4)(5)(6)- General Permits	Power to alter the conditions of a permit during the currency of a permit	- City Permits Authorised Officer	Subject to the requirements of Clause 9 (3)
69(1)- General Permits	Power to correct a permit	- City Permits Authorised Officer	Subject to the requirements of Clause 9 (3)
69(2)- General Permits	Power to receive and determine submissions	- City Permits Authorised Officer	Subject to the requirements of Clause 9 (3)
70(1)(2)(3)- Local Law Permit Register	Duty to maintain record of permits, register of determinations made and registers to be made available for public inspection	- Manager Arts & Culture - St Kilda Esplanade Market Manager - Manager Safety & Amenity - Manager Sustainability - Manager Public Space - Manager City Development	Subject to the requirements of Clause 9 (3)
71(1)- Exemptions	Power to exempt any person or class of persons from the requirement to have a permit	- General Manager Place Strategy and Development - Manager City Development	Subject to the requirements of Clause 9 (3)
79(2)- Impounded Goods	Power to refuse to release impounded goods until appropriate fee paid	- Coordinator Local Laws & Animal Management	Subject to the requirements of Clause 9 (3)
79(4)c- Impounded Goods	Power to dispose of goods impounded when owner does not intend to retrieve	- Coordinator Local Laws & Animal Management	Subject to the requirements of Clause 9 (3)

79(6)- Impounded Goods	Power to pay proceeds of sale of impounded goods to owner	- Coordinator Local Laws & Animal Management	Subject to the requirements of Clause 9 (3)
79(7)- Impounded Goods	Duty to comply with requirements of Unclaimed Monies Act 2008 if unable to identify owner of goods.	- Coordinator Local Laws & Animal Management	Subject to the requirements of Clause 9 (3)

74. Compliance with Directions

This section is intentionally blank.

75. Power of authorised officers

Please refer to Section 73 for Delegations for this clause.

76. Notice to Comply

76.1 Notice to Comply Content

CLAUSE 70

To (Name and Address)

The following constituted a breach under clause [insert clause] of the Local Law No1 (Community Amenity) of 2013. To remedy this breach you must carry out the following work within[insert days] days from the date of this Notice.

Breach [specify breach]

Work to be carried out: [specify works to be carried out]

You should contact [insert name] (contact officer) at the Council offices between the hours of.....and.....for further information about this Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable for the payment of a penalty of $.....for the offence. If you do not remedy the breach the authorised officer may carry out the work and you will be liable for the cost of the work in addition to the above penalty.

Date:.....

Name of authorised officer:

Phone number of authorised officer

Note: If this Notice relates to a contravention of a permit or a condition of the permit and there is failure to comply with this Notice, the permit may be cancelled. If you do not wish to have the permit cancelled you should comply with this Notice or write to the Council about why the permit should not be cancelled.

77. Failure to Comply with the Notice to Comply

Please refer to section 73 for Delegations for this clause.

78. Power of Authorised Officers to Act in Urgent Circumstances

Please refer to section 73 for Delegations for this clause.

79. Power of Authorised Officers to Impound

79.1 Notice of impoundment content example

CLAUSE 75

To: (name/address)

The following items have been impounded under clause 79 of the Local Law No.1. (Community Amenity): [description of impounded items]

You can make arrangements to collect the items from: [insert details]

between the hours of _____ by contacting [insert name of Authorised Officer]

and paying the following fees: [Details of fees and charges $]

If you do not collect the items and pay the fees and charges, the items may be disposed of in accordance with clause 79 of the Local Law.

Name and Signature of Authorised Officer, Date, Contact Details

80. Infringement Notices

Infringement notices are issued in accordance with the requirements of the *Infringements Act* 2006.

81. Penalties for Continuing Offences

This section is intentionally blank.

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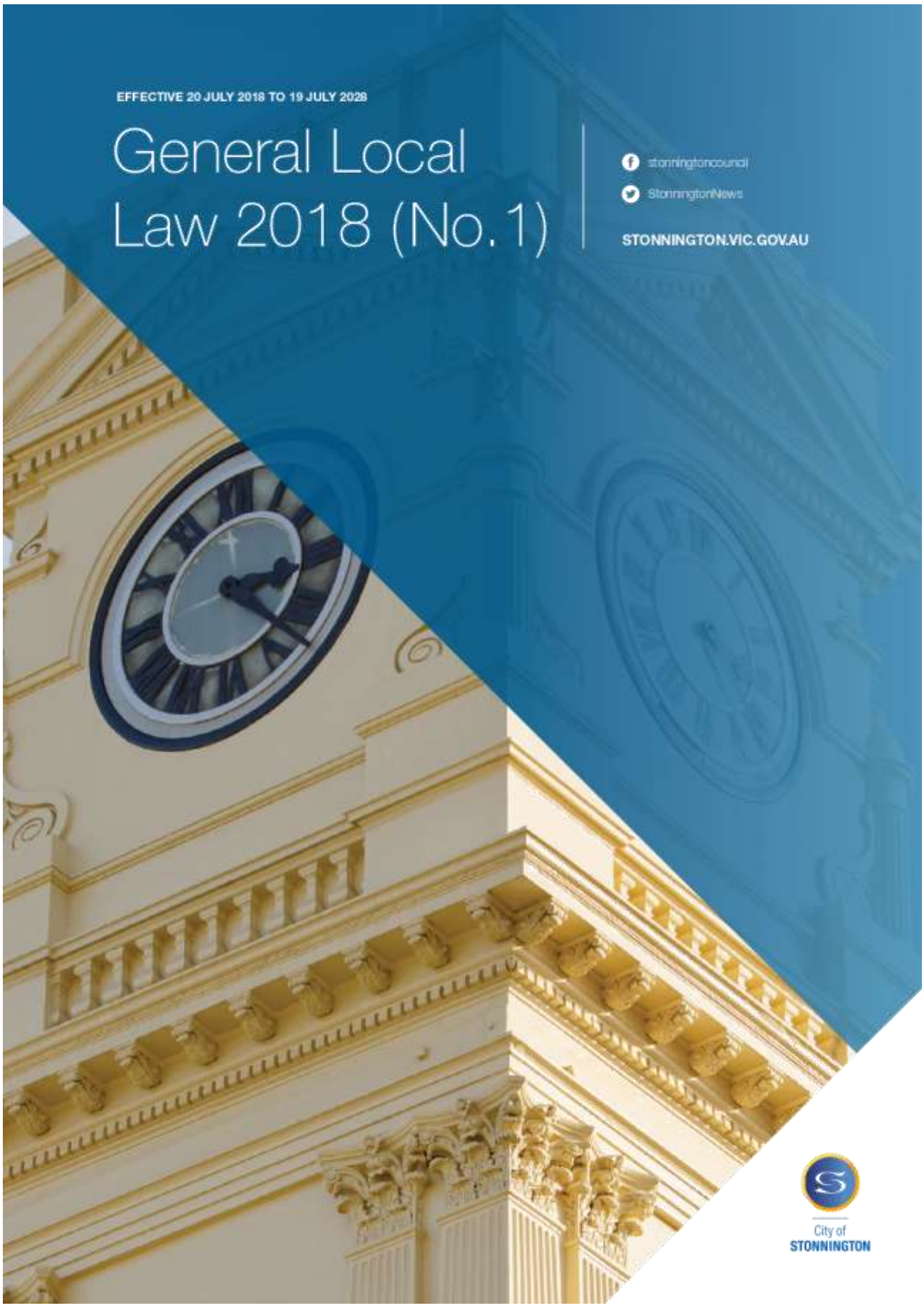

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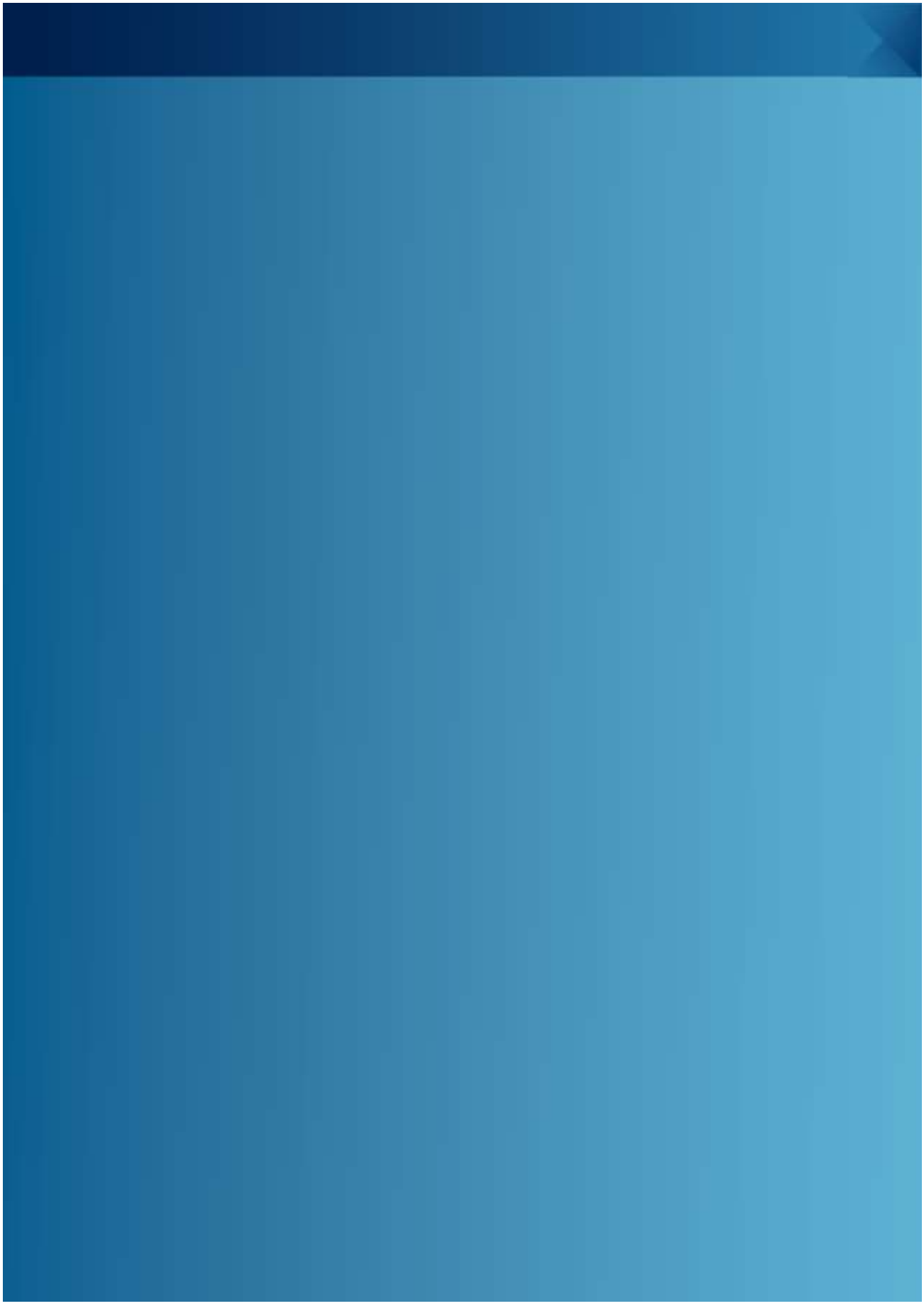

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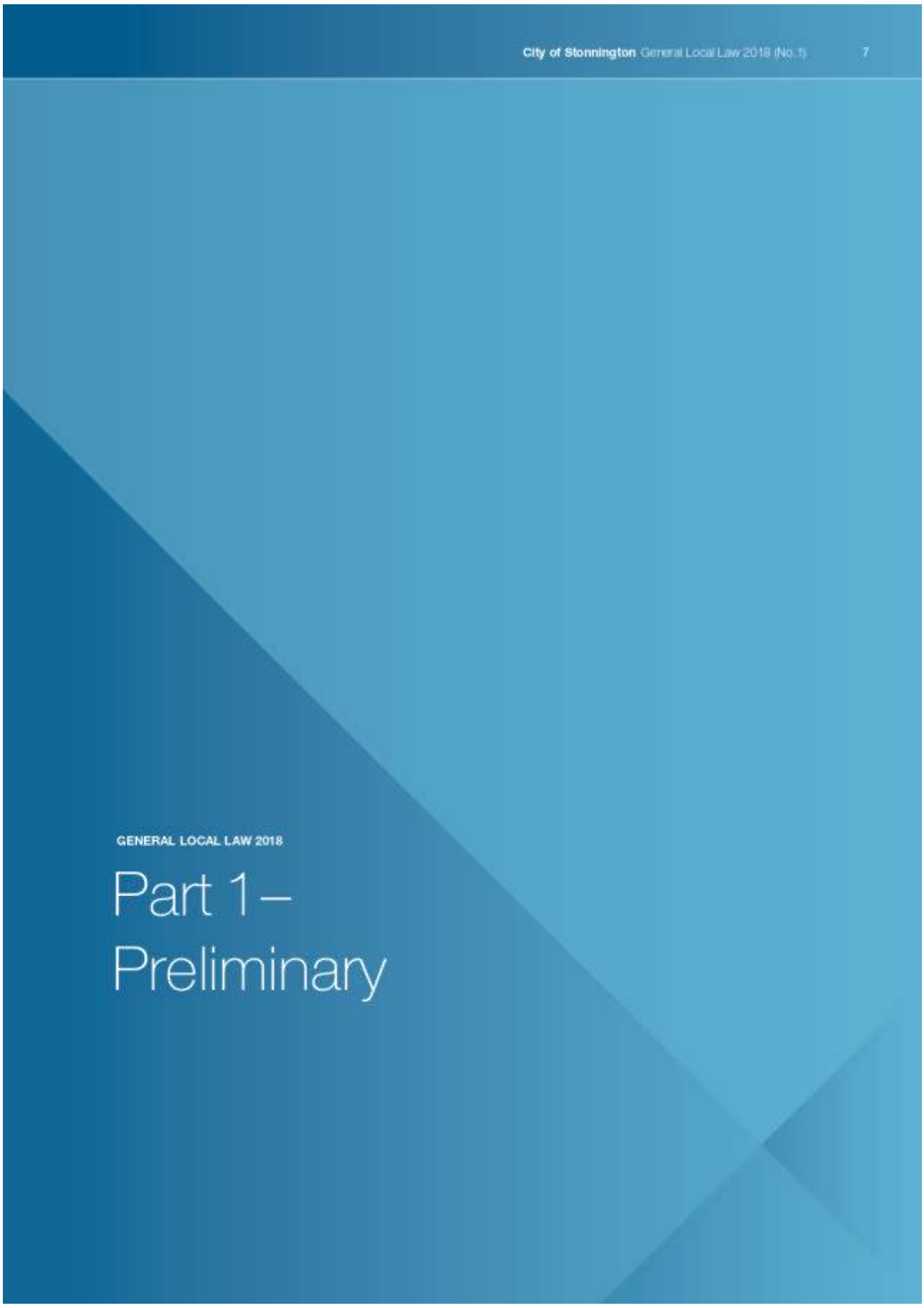

Attachment 10 - Stonnington - General-local-law-2018

1. Name and Objectives of Local Law

This Local Law is known as the General Local Law No. 1, and the objectives of this Local Law are to provide for:

(a) the peace, order and good government of the Municipal District;

(b) the administration of Council powers and functions;

(c) a safe and healthy environment so the community can enjoy a quality of life that meets its expectations;

(d) the safe and equitable use and enjoyment of Public Places;

(e) the protection and enhancement of the amenity and environment of the Municipal District;

(f) the fair and reasonable use and enjoyment of private land;

(g) the prohibition, regulation and control of activities, events, practices or behaviour in places so that no detriment is caused to the amenity of the neighbourhood nor nuisance caused to a person nor damage caused to a person's property; and

(h) the prohibition, regulation and control of activities that may affect urban character and local amenity.

2. Authorising Provision of this Local Law

This Local Law is a Local Law made under section 111 of the **Local Government Act 1989** and section 42 of the **Domestic Animal Act 1994**.

3. Commencement of this Local Law

This Local Law comes into operation on the day after the date of notice of making the Local Law is published in the Victoria Government Gazette.

4. Revocation Date of this Local Law

This Local Law ceases to operate on 19 July 2028.

5. Definition of Words Used in this Local Law

Unless the contrary intention appears in this Local Law:

"Act" means the **Local Government Act 1989**, as amended from time to time.

"Advisory Committee" means an advisory committee established by Council under section 86(1) of the Act.

"Agenda" means the notice of a meeting setting out the business to be transacted at the meeting.

"Animal" includes a bird or reptile.

"Approved Receptacle" means a waste receptacle purchased and supplied by Council.

"Asset Protection Permit Bond" means a bond, bank guarantee or like security required to be paid under a Permit.

"Assistance Animal" has the same meaning as in section 9 of the **Disability Discrimination Act 1992** (Cth).

"Authorised Officer" means a person appointed by Council to be an Authorised Officer pursuant to section 224 of the Act or treated by section 224A of that Act to have been either in relation to the whole of this Local Law or to a particular portion of it in which the term is used.

"Barbecue" means a permanent structure, device or contraption:

(a) designed or constructed for the purpose of cooking food in the open air for human consumption; and

(b) which is being used for the purpose of cooking food or prior to or subsequent to cooking food.

"Building" includes a part of a building, a structure, temporary structure, part of a temporary building, outbuilding, fence, wall, provision for lighting, heating, water supply, drainage and sewerage and any other appurtenances of a building.

"Chairperson" means the Chairperson of the meeting and includes an acting, a temporary and a substitute Chairperson.

"Chief Executive Officer" means the Chief Executive Officer of Council appointed in accordance with section 94 of the Act, or other person appointed to act in that position during the Chief Executive Officer's absence.

"Chimney" includes a structure or opening of any kind from or through which smoke or air impurity may be emitted from a building.

"Committee" means an advisory Committee or a Special Committee.

"Common Seal" means the common seal of Council.

"Confidential Business" means:

(a) personnel matters;

(b) the personal hardship of any resident or ratepayer;

(c) industrial matters;

(d) contractual matters;

(e) proposed developments;

(f) legal advice;

(g) matters affecting the security of Council property;

(h) any matter that Council or the Special Committee considers would prejudice Council or any person;

(i) a resolution to close the meeting to members of the public.

"Construct" includes build, construct, erect, place in position, re-build, re-construct, re-erect, replace in position or do any structural work.

"Council" means Stonnington City Council.

"Council Land" means all land:

(a) owned, leased, managed or occupied by Council; or

(b) vested in Council or under the control of Council and which it has a duty to maintain.

"Council Meeting" means an Ordinary Meeting or a Special Meeting of Council.

"Council Reserve" means Council land that is:

(a) a sports ground; or

(b) a park; or

(c) a nature reservation; or

(d) a facility provided or used in association with activities at a sporting ground, park or nature reservation; or

(e) a place specified in the Procedure and Protocol Manual; or

(f) a reserve, as declared by resolution of the Council; or

(g) purchased by, leased or otherwise provided to or managed or controlled by Council for a recreation, cultural or entertainment purpose.

"Council Waste Depot" includes:

(a) any depot or station for the collection or transfer of Waste; or

(b) any Waste disposal landfill site, operated by or on behalf of Council.

"Councillor" means an elected person who holds the office of a member of Council.

"Delegate" means a delegate appointed on the nomination of Council.

"Election Period" means the election period as defined in section 3 of the Act.

"Extraordinary Vacancy" means an extraordinary vacancy as described in section 69(1) of the Act.

"Fire" includes smouldering or causing smoke (whether or not there is a conflagration) but does not include:

(a) a fire lit in the course of official duties by a member of a Fire Brigade;

(b) a domestic appliance; or

(c) a tool of trade.

"Footpath Trading Code" means the code regulating activities that occur on the footpaths as adopted by Council by resolution dated 17 September 2007 as amended by Council from time to time.

"General Election" means a general election as described in section 31 of the Act.

"General Manager" means a member of staff occupying a second-level position in the organisational structure of the organisation as approved by Council.

"Goods" includes food or services.

"Graffiti" includes any inscriptions or drawings scribbled, scratched, sprayed or otherwise applied, as determined by Council, on any surface.

"Hard Waste" means garden refuse, any rubbish of a size, shape, nature or volume that cannot be contained in an Approved Receptacle including any brick, concrete, masonry or engine parts and any other type of rubbish prescribed by Council.

"Liquor" means a beverage intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius.

"Litter Device" means an apparatus designed for the purpose of removing Animal excrement and includes a paper or plastic bag.

"Manager" includes:

(a) the person for the time being holding the office of Manager of a swim centre;

(b) any person from time to time acting as Manager of a swim centre;

(c) any person from time to time appointed or authorised by Council to deal with, form an opinion, or act in regard to any act, matter or thing required or authorised to be dealt with or acted in regard to by a Manager;

(d) the person for the time being holding the office of Library Coordinator, or the person in charge of each branch library or history service, or senior on Duty Officer;

(e) the person for the time being holding the office of General Manager or Manager of the Stonnington City Council; and

(f) any person holding the office of or from time to time acting as Manager of a municipal building.

"Material or Substance" includes undergrowth, scrub, bracken, ferns, weeds, stubble and grass (whether alive or dead and whether standing or not standing).

"Mayor" means the Mayor of Council and any person acting as Mayor.

"Meeting" means an Ordinary or a Special meeting of Council, a Special Committee meeting or an Advisory Committee meeting.

"Member" means a Councillor or a member of a Special Committee Meeting.

"Motor Vehicle" has the same meaning as in the **Road Safety Act 1986**.

"Municipal District" means Council's municipal district.

"Municipal Place" means the area which the public as the public may go (whether an admission fee is required or not) of a Library, building, golf course or swimming pool that is owned, managed or under the control of Council.

"Notice to Comply" means a Notice to Comply given under clause 11 specifically provided for in any other clause.

"Occasional Event" means a gathering of 30 or more people for any purpose.

"Ordinary Meeting" means an ordinary meeting of Council as described in section 83(a) of the Act.

"Penalty Unit" has the same meaning as set out in section 110 of the **Sentencing Act 1991**.

"Permit", when used as a noun, means a written permit issued under this Local Law.

"Personal explanation" means an explanation about an action or statement where that action or statement reflects, or may reflect, on the personal qualities, conduct or reputation of the person making the explanation.

"Planning Scheme" means the Stonnington Planning Scheme or any replacement scheme.

"Principal Local Law" means the General Local Law No.1 made by Council.

"Public Body" means any government department or municipal Council or body established for a public purpose by an Act of the Parliament of Victoria, any other state or territory of the Commonwealth, or the Commonwealth.

"Public Place" has the same meaning as in the **Summary Offences Act 1966**.

"Road" has the same meaning as in the **Local Government Act 1989**.

"Segway" means a two wheeled self-balancing scooter.

"Sell" includes:

(a) barter, offer or attempt to sell, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale, or allow to be sold or offered for sale; and

(b) sell for re-sale.

"Service Centre" means an administrative office of the Council.

"Special Committee" means a Special Committee established by Council under section 86 of the Act.

"Special Meeting" means a special meeting of Council as described in section 83(b) of the Act.

"Statutory Meeting" means a meeting of Council at which the Mayor is elected, as described in section 84A of the Act or as called under clause 26.

"Vehicle" has the same meaning as in the **Road Safety Act 1986**.

6. Application of the Local Law

(1) This Local Law applies throughout the whole of the Municipal District.

(2) Nothing in this Local Law relating to an Animal in general or a dog in particular prevents:

(a) a blind or deaf person being entitled at all times and in all places to be accompanied by an Assistance Animal; or

(b) a member of the police force or government agency in charge of a dog from carrying out their law enforcement duties.

(3) This Local Law does not apply to an Authorised Officer or a member of Council staff in the course of carrying out that person's powers and duties.

(4) This Local Law does not apply to a person engaged to undertake any activity on behalf of Council.

(5) No footnote in this Local Law shall be taken to form part of the Local Law.

(6) Explanatory notes shall not be taken to form part of the Local Law. They are provided to assist understanding.

7. Council Positions

(1) A reference to a person by way of that person's position with Council includes a person:

(a) authorised to carry out the powers, duties and functions of that position at Council;

(b) acting in that capacity; or

(c) if that position in Council ceases to exist, any person exercising any power, duty or function that was previously a power, duty or function of the previous position.

8. Conflict with Other Legislation

(1) This Local Law does not apply where any act or thing is authorised by or under the Planning Scheme.

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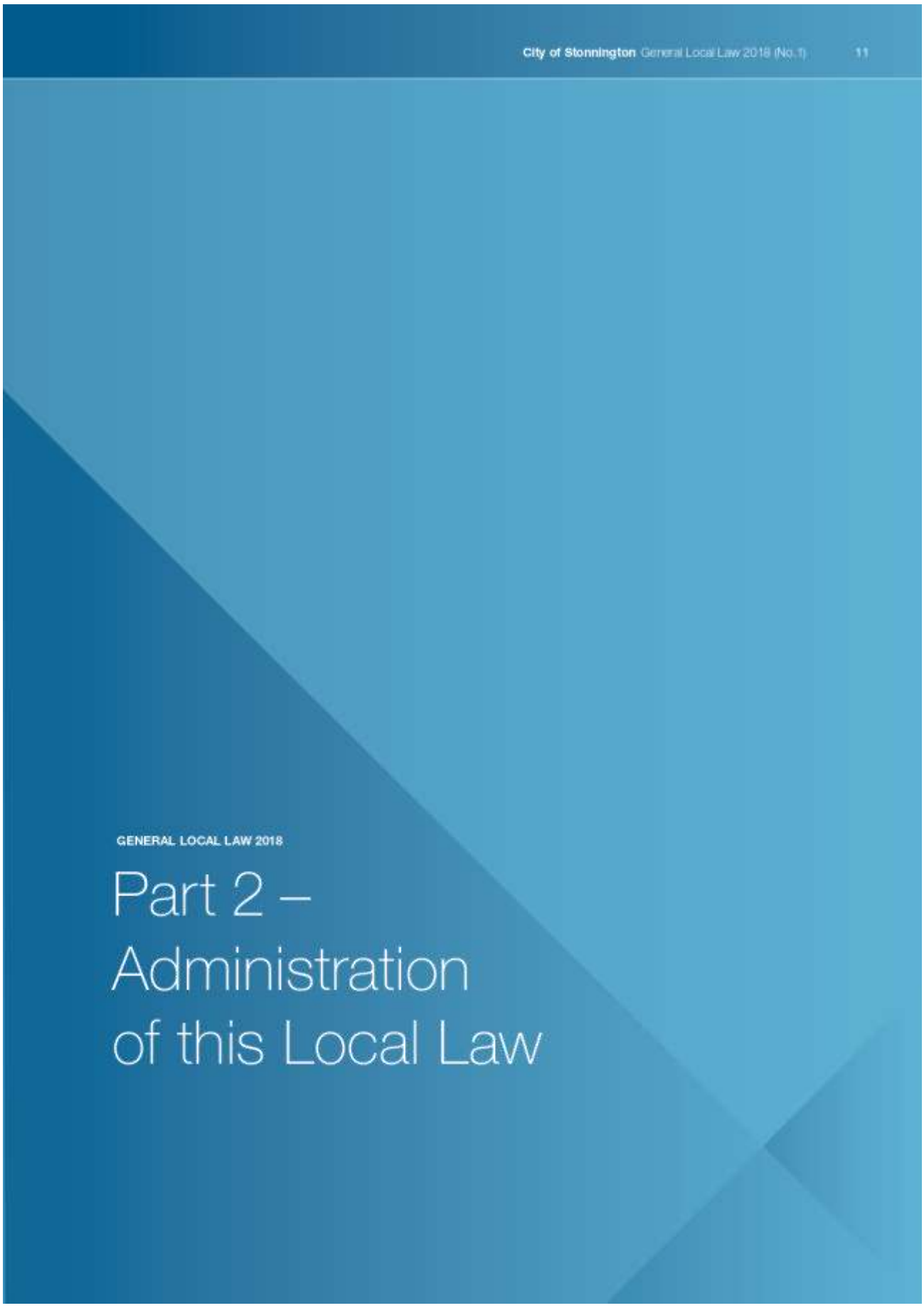

9. Exercise of Discretions

(1) In exercising a discretion in this Local Law, the matters that Council are to have regard to include:

(a) the objectives and purposes of this Local Law;

(b) any standards and codes of practice adopted by Council from time to time; and

(c) any guidelines adopted by Council from time to time.

(2) Council may prepare guidelines for use by Council, a member of Council staff, Authorised Officers and other persons for the purposes of this Local Law.

(3) Guidelines prepared by Council must not be inconsistent with the objectives of this Local Law or with the standards and codes of practice as adopted by Council.

(4) In preparing guidelines, Council must have regard to the objectives of this Local Law and the standards and codes of practice as adopted by Council.

10. Register of Determinations

(1) A standard, code of practice or guideline adopted by Council for the purposes of this Local Law must be maintained by the Chief Executive Officer in a register kept for that purpose.

(2) The register must be available for inspection at the office of Council during normal business hours.

11. Direction of Council: Notice to Comply

(1) Council may, by a Notice to Comply, make any reasonable direction to a person:

(a) to remedy any situation that, in the opinion of Council, constitutes a breach of this Local Law; or

(b) to do anything specifically provided in this Local Law and being the subject of a Notice to Comply,

and the person must comply with that direction.

(2) Council may determine the form of a Notice to Comply contained in the Procedure and Protocol Manual.

12. Time to Comply

(1) A Notice to Comply must state the time and date by which the notice must be complied.

(2) The time required by a Notice to Comply served under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied; however, the following should be taken into account, where applicable:

(a) the amount of work involved;

(b) the degree of difficulty in remedying the situation;

(c) the availability of necessary materials or other necessary items;

(d) climatic conditions;

(e) the degree of risk or potential risk; and

(f) any other relevant matter.

13. Service of Notice to Comply

A Notice to Comply may be served or given pursuant to section 234 of the Act.

14. Failure to Comply with a Notice to Comply

A person who fails to comply with a Notice to Comply is guilty of an offence.

15. Power of Authorised Officers to Act in Urgent Circumstances

(1) An Authorised Officer may in urgent circumstances arising out of a failure to comply with this Local Law take immediate action to remedy the situation without the necessity to serve a Notice to Comply if:

(a) he or she considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a Notice to Comply may place a person, Animal, property or thing at risk or in danger; and

(b) details of the circumstances and remedying action are as soon as possible forwarded to the person on whose behalf the action was taken.

(2) The action taken by an Authorised Officer under sub-clause (1) must not extend beyond what is reasonably necessary to remedy the risk or danger involved.

16. Appeals

(1) Any person who is aggrieved by a direction or Notice to Comply may, within 28 days after the date of issue of the direction or notice, apply to Council to be heard and may make a written submission for consideration by Council.

(2) Notwithstanding that a person has made application to Council in sub-clause (1) he or she is not relieved of the obligation to comply with the direction or Notice to Comply.

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17. Compliance with Directions and Notices

(1) Where:

(a) section 225 of the Act does not apply; and

(b) the person given the direction or served with a Notice to Comply fails to comply with the direction or notice,

Council or any other person, with the approval of Council, may enter upon any land on which there is any such failure to comply and do all such acts, matters or things that are required to comply with the direction or Notice to Comply.

(2) All costs and expenses incurred by Council in carrying out any acts, matters or things described in sub-clause (1) are a debt due to Council from the person on whom the direction or Notice to Comply was given or served.

18. Delegations and Authorisations

In accordance with section 114 of the Act, Council hereby delegates to the Chief Executive Officer and Authorised Officers all the powers, discretions, authorities and considerations of Council under this Local Law including the powers, discretions, authorities and considerations to make a direction by Notice to Comply, the powers, discretions and authority to issue or refuse Permits, fix conditions and durations relevant to Permits, cancel or suspend Permits, require additional information, apply guidelines, standards or codes of practice of Council, waive the need for any Permit or to do any act, matter or thing necessary or incidental to the exercise of any function or power by Council.

19. Incorporation of Documents

(1) The document titled "Procedure and Protocol Manual", as made by Council and published from time to time on Council's website, is hereby incorporated into this Local Law.

(2) The document titled "Keeping of Animals Policy", as made by Council and published from time to time on Council's website, is hereby incorporated into this Local Law.

(3) The document titled "Footpath Trading Code", as made by Council and published from time to time on Council's website, is hereby incorporated into this Local Law.

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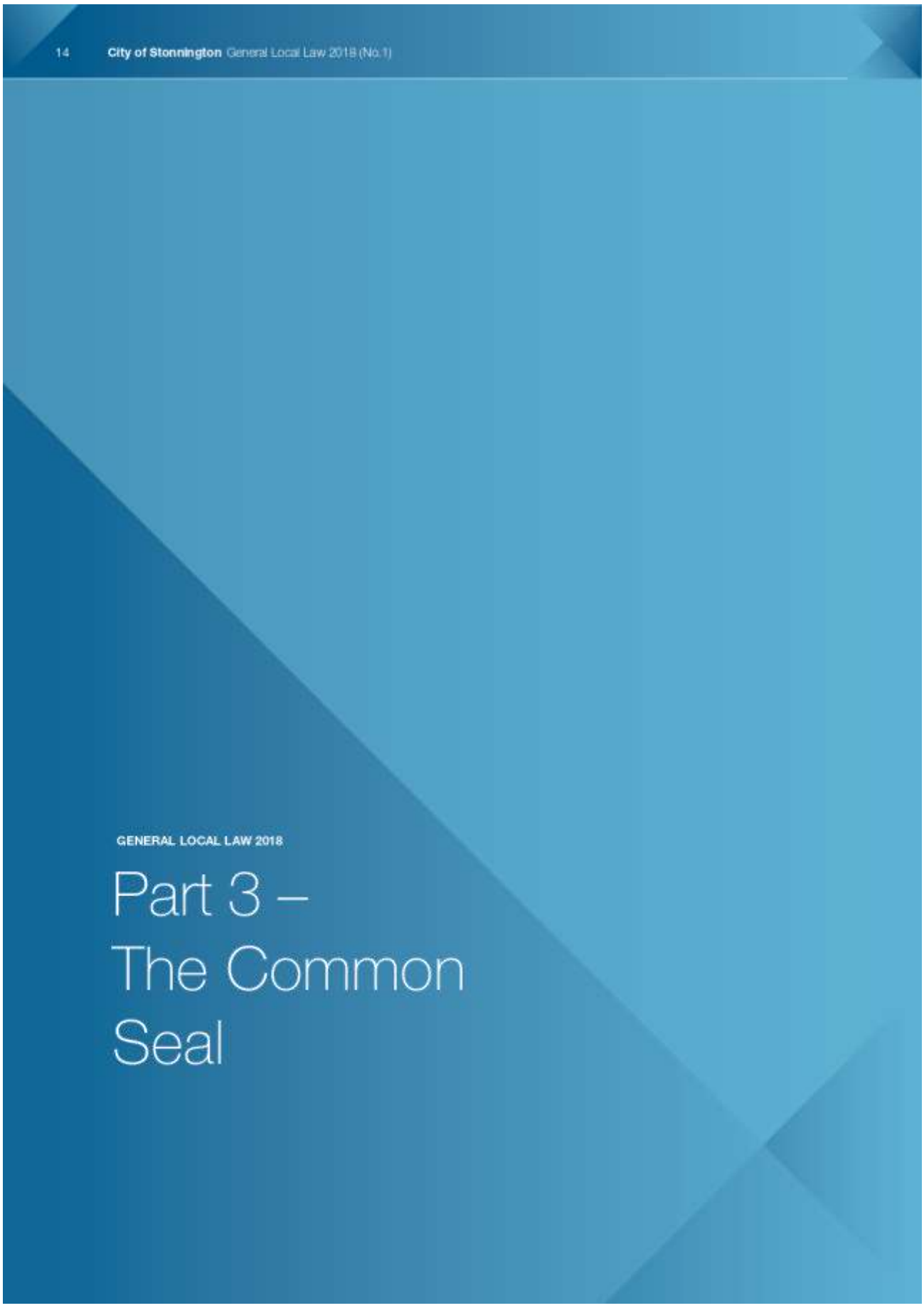

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20. Purpose of the Common Seal

The purpose of this Part is to regulate the use of the Common Seal and prohibit unauthorised use of the Common Seal or any device resembling the Common Seal as required by section 5(3)(c) of the Act.

21. Who Keeps the Common Seal

The Chief Executive Officer or a General Manager must keep the Common Seal in safe custody.

22. Signatures to Accompany the Common Seal

Every document to which the Common Seal is affixed must be signed by a Councillor and either the Chief Executive Officer or a General Manager.

23. Affixing the Common Seal

(1) The Common Seal may be affixed to a document for the purpose of giving effect to a decision:

(a) made by Council resolution;

(b) made by resolution of a Special Committee composed solely of Councillors;

(c) made by resolution of a Special Committee under delegation; or

(d) made by the Chief Executive Officer under delegation.

(2) The Chief Executive Officer must ensure a Common Seal register is kept that records, for each time the Common Seal is affixed to a document:

(a) the names of the people who signed as witnesses;

(b) a description of the document to which the Common Seal was affixed;

(c) the date on which the Common Seal was affixed;

(d) the date of the authorising Council resolution.

(3) The sealing clause is:

"The COMMON SEAL of the

STONNINGTON CITY COUNCIL

was hereunto affixed in the

presence of:

_____

Councillor

_____

_____

Chief Executive Officer/General Manager"

(4) The sealing clause to be used by the Chief Executive Officer under delegation is:

"Signed under delegation on behalf of Stonnington City Council by:

_____

Chief Executive Officer

in the presence of

_____

_____

Witness"

24. Unauthorised Use of the Common Seal

A person must not use the Common Seal or any device resembling the Common Seal without the authority of Council.

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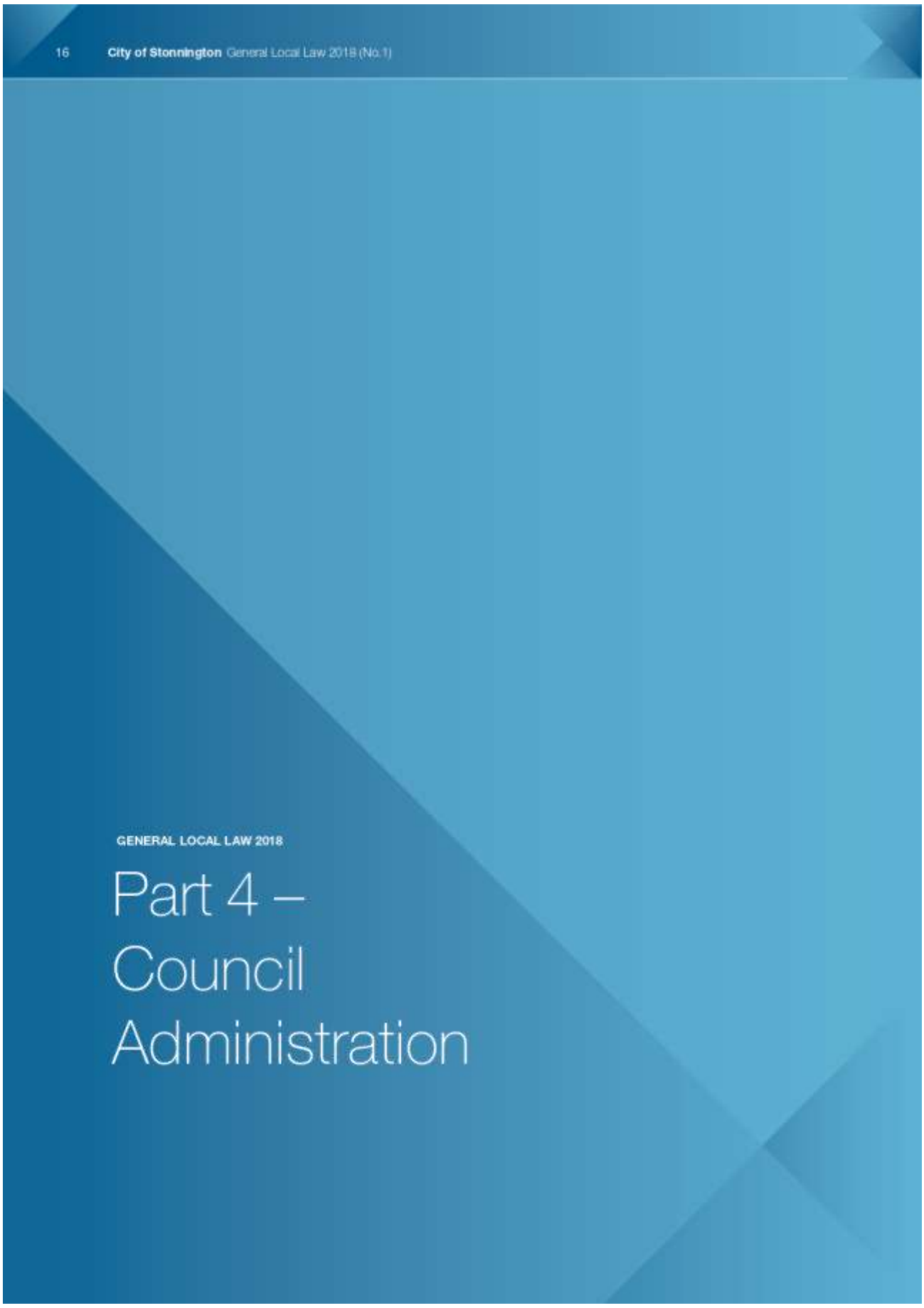

Division 1 – Procedure for the Conduct of a Meeting to Elect a Mayor

25. Purpose

The purpose of this Division is to regulate the proceedings for the conduct of the Statutory Meeting and provide for the appointment of a Deputy Mayor in certain circumstances.

26. Statutory Meeting after a General Election

(1) Following a General Election, or upon the term of office of the Mayor concluding, the Chief Executive Officer must summon a Statutory Meeting after the fourth Saturday in October but not later than 30 November.

(2) Alternatively, or if the Chief Executive Officer does not summon a Statutory Meeting in accordance with sub-clause (1), at least three (3) Councillors may, by a written notice, call a Statutory Meeting.

(3) In the case of an Extraordinary Vacancy in the office of the Mayor, the Chief Executive must convene a Special Meeting to enable a Mayor to be elected.

(4) Alternatively, or if the Chief Executive Officer does not convene a Special Meeting in accordance with sub-clause (3), at least three (3) Councillors may, by a written notice, convene a Special Meeting.

27. Statutory Meeting after an Extraordinary Vacancy in the Office of Mayor

This clause was incorporated into clause 25.

28. Statutory Meeting after a Mayoral Office Becomes Vacant (Non-Election Years)

This clause was incorporated into clause 25.

29. Council Meeting to Elect An Acting Mayor

(1) In the event the Mayor is unable to carry out the powers, functions or duties prescribed for the Mayor due to absence or illness, an Acting Mayor may be elected at a Council Meeting.

(2) An Acting Mayor elected in accordance with sub-clause (1) must carry out the powers, duties and functions prescribed for the Mayor until such time as the Mayor resumes his or her role or until such time as Council votes that the Acting Mayor should no longer continue to act in that role, whichever occurs first.

(3) The procedure for electing an Acting Mayor is to be the same as the procedure under clause 33(3) for the election of the Mayor, as if any reference to the Mayor is a reference to the Acting Mayor and any reference to the Statutory Meeting is a reference to the Council Meeting.

(4) As far as reasonably practicable, an Acting Mayor has the same rights, powers, duties and functions as the Mayor when he or she is Acting Mayor.

30. Timing of Statutory Meetings

This clause was incorporated into clause 25.

31. Order of Business of the First Statutory Meeting

(1) Until the Mayor is elected, the Chief Executive Officer will be the temporary Chairperson and Returning Officer of the Statutory Meeting but will have no voting rights.

(2) Unless Council resolves in a particular case, the order of business for a Statutory Meeting called under clause 26 must be as follows or as near to follows as may be practicable:

(a) reading of the Reconciliation Statement and Affirmation Statement;

(b) apologies;

(c) swearing in new Councillors;

(d) oath of office – the making of the oath of office by each Councillor under section 63 of the Act;

(e) code of conduct – the declaration by each Councillor to observe the Councillor Code of Conduct pursuant to section 76C of the Act;

(f) fixing of allowances – the fixing of allowances for the Mayor and Councillors pursuant to section 74 of the Act;

(g) decision of the length of the Mayoral term;

(h) election of Mayor and any Deputy Mayor; and

(i) Mayoral Address.

Division 2 – Procedure for Election of Mayor

32. Purpose

The purpose of this Division is to regulate the procedure for electing a Mayor.

33. Procedure for Election of Mayor

(1) Councillors must elect a Mayor at a Statutory Meeting or, following an Extraordinary Vacancy, at a Special Meeting.

(2) All Councillors are eligible for election or re-election to the office of Mayor.

3) The election of Mayor is to be in accordance with the following:

(a) The Returning Officer must invite nominations for the office of Mayor.

(b) Nominations do not require a seconder.

(c) If there is only one nomination, the candidate nominated is deemed to be elected.

(d) If there is more than one nomination, the Councillors present at the meeting may vote for one of the candidates.

(e) If a candidate receives an absolute majority of the votes, that candidate is declared to have been elected.

(f) If no candidate receives an absolute majority of the votes, the candidate with the fewest number of votes is to be declared a defeated candidate. The Councillors present at the meeting may then vote for one of the remaining candidates. This procedure will continue until one of the candidates has an absolute majority.

(g) In the event of two or more candidates having an equality of votes and one of them having to be declared:

(i) a defeated candidate; or

(ii) duly elected,

the result must be determined by lot; and

(h) if a lot is conducted, the Returning Officer has the conduct of the lot.

34. Procedure for Election of Deputy Mayor

(1) Councillors may elect a Deputy Mayor at a Statutory Meeting.

(2) Any election for the office of Deputy Mayor will be regulated by clause 33 subject to:

(a) the Mayor being ineligible for election to the office of Deputy Mayor; and

(b) clause 33 being applied as if the reference to the Mayor in clause 33(3) is a reference to the Returning Officer (other than in clause 33(3)(h) when the reference to the Returning Officer is a reference to the Chief Executive Officer).

35. Mayor to Take the Chair

(1) All meetings must be presided over by a Chairperson.

(2) After the election of the Mayor, subject to sub-clause (4) and (5), the Mayor must be the Chairperson.

(3) The Mayor, when present, must take the chair at all Council Meetings.

(4) If the Mayor is absent from a Council Meeting:

(a) the Deputy Mayor, if a Deputy Mayor has been elected in accordance with clause 33, will take the chair; or

(b) the most recent past Mayor will take the chair as temporary Chairperson if a Deputy Mayor has not been elected.

(5) If the Mayor and all past Mayors are absent from a Council Meeting, and a Deputy Mayor has not been elected, then the following procedure must be followed for electing a temporary Chairperson:

(a) The Chief Executive Officer must take the chair and invite nominations from the Councillors present for a temporary Chairperson. Nominations do not require a seconder. If there is more than one nomination the Chief Executive Officer will act as Returning Officer for the election of a temporary Chairperson.

(b) The procedure for electing a temporary Chairperson is to be the same as the procedure under clause 33(3) for the election of the Mayor.

(6) A temporary Chairperson has the same rights and duties as the Mayor when he or she sits as Chairperson.

36. Duties of a Chairperson

At a Council Meeting, the Chairperson's duties include but are not limited to:

(a) presiding over and controlling the meeting to ensure, to the best of their ability, it is conducted in accordance with this Local Law;

(b) ascertaining that a quorum is present, and if a quorum is present, formally declaring the meeting open;

(c) welcoming Councillors and visitors;

(d) signing minutes of meetings as correct when they have been confirmed in accordance with section 93(5) of the Act;

(e) calling for disclosure by Councillors of any conflicts of interest in accordance with section 79 of the Act;

(f) presenting any reports for which he or she is responsible;

(g) ensuring debates are conducted in the correct manner;

(h) in the case of competition for the right to speak, deciding the order in which the Councillors concerned will be heard;

(i) declaring the results of all votes;

(j) giving rulings on points of order and other questions of procedure;

(k) preserving order and, if necessary, "naming" offending Councillors; and

(l) adjourning (when so resolved) or formally declaring a meeting closed when all business has been concluded.

Division 3 – Meeting Procedure

37. Purpose

The purpose of this Division is to regulate proceedings for the conduct of Council Meetings as required by section 91(1) of the Act and provide for other miscellaneous matters.

38. Date, Time and Place of Council Meetings

Council may, by resolution at a Council Meeting, determine the day, time and place upon which any future Council Meeting will be held.

39. Agenda for and Notice of a Council Meeting

(1) A notice of meeting for any Council Meeting, including an adjourned Council Meeting and a meeting that has lapsed in accordance with clause 44, must state the date, time and place of the meeting.

(2) The Chief Executive Officer must give public notice of every Council Meeting including the date, time and place of such meeting at its Service Centres and on the Council's website at least 48 hours before the meeting and as soon as practicable thereafter in Council libraries, except in the case of an adjourned or lapsed meeting, but where that is not practicable because time does not permit that to occur, the Chief Executive Officer must provide reasonable public notice of the meeting in accordance with section 89(4)(A) of the Act.

(3) The Chief Executive Officer must give public notice of any adjourned or lapsed Council Meeting including the date, time and place of such meeting at its Service Centres and on the Council's website as soon as practicable before the meeting, but where that is not practicable because time does not permit that to occur, the Chief Executive Officer must provide reasonable public notice of the meeting in accordance with section 89(4)(A) of the Act.

(4) The Chief Executive Officer must ensure that a notice of meeting and the agenda for any Council Meeting is sent to every Councillor by hard copy or electronically so that it is received at least 48 hours before the meeting, except in the case of an adjourned meeting or lapsed meeting.

(5) The Chief Executive Officer must ensure that a notice of meeting and the Agenda for any adjourned meeting or lapsed Council Meeting is sent to every Councillor by hard copy or electronically so that it is received at least 48 hours before the meeting, but where that is not practicable because time does not permit that to occur, the Chief Executive Officer may provide the notice of meeting by telephone or in person and may provide the agenda as soon as practicable before the meeting commences.

(6) It is not necessary for a notice of meeting for a Council Meeting, or an adjourned or lapsed meeting, to be given to any Councillor who is on leave of absence, unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice.

40. Special Meetings

(1) In accordance with section 84(1) of the Act, the Mayor or at least three (3) Councillors may, by a written notice, call a Special Meeting.

(2) The notice must specify the date and time of the Special Meeting and the business to be transacted.

(3) The Chief Executive Officer must call the Special Meeting as specified in the notice and must distribute an Agenda for the Special Meeting.

(4) Unless the meeting decides otherwise, the order of business of a Special Meeting must be the order set out in the Agenda.

(5) Despite the requirements of clause 39, the Chief Executive Officer is not required to send the Agenda for a Special Meeting so that it is received 48 hours before the meeting if in the circumstances it is not possible to do so.

(6) Unless all Councillors are present and unanimously agree to deal with another matter, only the business specified in the notice is to be transacted at the Special Meeting.

41. Councillors Address for Delivery of Notices, Agendas, Minutes and other Documents

(1) Each Councillor shall notify the Chief Executive Officer in writing of his or her address for delivery of notices of meetings, agendas, minutes and like documents. That address may be a residential or business address within the Municipal District or facsimile or email address and may be specified to be "care of Council offices". The address given will be deemed to be his or her address for delivery of such documents. The address given may be changed by the Councillor giving written advice of such change to the Chief Executive Officer.

(2) If no address for delivery is specified, or if an invalid address is specified, all documents may be left for collection by the Councillor "care of Council offices".

42. Documents to be in the English Language

(1) All documents referred to in this Local Law must be in the English language.

(2) Any document provided to Council in another language will be translated into English by authorised translators before being forwarded to Councillors or Council staff for action.

(3) Sub-clause (2) applies to any documents not in English tabled at a Council Meeting.

43. Quorum

The quorum for a Council Meeting is a majority of the number of people currently holding the office of Councillor.

44. Failure to Raise a Quorum

If a quorum is not present within 30 minutes of the time specified in the notice of meeting for the commencement of a Council Meeting:

(a) the meeting lapses; and

(b) the Chairperson must convene another Council Meeting and ensure that the agenda for it is identical to the Agenda for the meeting that has lapsed.

45. Failure to Maintain a Quorum

(1) If a quorum is lost after a Council Meeting has begun, the Chairperson must adjourn the meeting and then reconvene the meeting within 30 minutes after it was adjourned, in which case:

(a) if a quorum is then present the meeting resumes; or

(b) if a quorum is not present and if, after using best endeavours to regain a quorum, the Chairperson is unsuccessful, the Chairperson must announce that the meeting has lapsed, whereupon the meeting lapses.

(2) If a meeting lapses under sub-clause (1)(b), those Agenda items that have not been dealt with must, unless already disposed of at a Special Meeting, be included in the Agenda for the next Ordinary Meeting.

(3) Despite the loss of a quorum in the circumstances set out in sub-clause (1), the Agenda items dealt with at the meeting to that point shall remain valid and be capable of being acted upon.

(4) If a quorum cannot be achieved or maintained due to declarations of interest or conflicts of interests, the Chief Executive Officer may adjourn the item for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister administering the Act.

46. No Business Outside the Agenda

Unless a quorum of Councillors is present and agree by majority to deal with another matter, no business can be transacted at an Ordinary Meeting unless it appears on the Agenda.

47. Open Meetings

(1) Subject to sub-clause (2), Council Meetings must be open to members of the public pursuant to section 89(1) of the Act.

(2) Council may resolve, under section 89(2) of the Act, that a meeting be closed to members of the public if Confidential Business is to be discussed.

48. Order of Business of an Ordinary Meeting

(1) Unless Council resolves in a particular case, the order of business of any Ordinary Meeting must be as follows, or as near thereto as may be practicable:

(a) reading of the Reconciliation Statement and Affirmation Statement;

(b) introductions;

(c) apologies;

(d) adoption and confirmation of minutes of previous meeting(s) in accordance with section 93 of the Act and clause 49;

(e) disclosure by Councillors of any conflicts of interest in accordance with section 79 of the Act;

(f) questions to Council from members of the public;

(g) correspondence (only if related to council business);

(h) questions to Council Officers from Councillors;

(i) tabling of petitions and joint letters;

(j) notices of motion;

(k) reports of Special and Other Committees – including tabling of any Assembly of Councillors Record;

(l) reports by Delegates;

(m) General Business including Other General Business;

(n) urgent business; and

(o) Confidential Business.

(2) The Chief Executive Officer must, in respect of an Ordinary Meeting, determine which matters are to be included in the Agenda for the meeting.

49. Confirmation of Minutes

(1) Subject to sub-clause (2), prior to every Ordinary Meeting, the Chief Executive Officer must deliver a copy of the minutes of the preceding Ordinary Meeting and any Special Meeting held after the last Ordinary Meeting to each Councillor by hardcopy or electronically, no later than 48 hours before the next meeting.

(2) In the event it is not practicable for the Chief Executive Officer to deliver a copy of the minutes of the preceding Ordinary Meeting and/or Special Meeting to each Councillor no later than 48 hours before the next meeting, the Chief Executive Officer must deliver a copy of the minutes to each Councillor as soon as practicable prior to the Ordinary Meeting.

(3) The Chairperson must call for a confirmation of the minutes of any Council Meeting at the next appropriate meeting and must ask whether any item requires correction.

(4) If no correction to the minutes is requested, the Chairperson must call for a motion (and a seconder to a motion) that the minutes be confirmed.

(5) If a Councillor indicates that a correction is required to the minutes he or she must specify the item(s) that he or she considers requires correction.

(6) The item(s) to which correction is required must be considered separately and in the order in which they appear in the minutes.

(7) A Councillor who requires the minutes to be corrected must move a motion indicating the amendment proposed but must not speak to the motion.

(8) No discussion is permitted on a motion for confirmation of minutes, except as to their accuracy as a record of the proceedings of the meeting to which they relate.

(9) Once the minutes are confirmed they must be, at all reasonable times, open for inspection by any person free of charge.

(10) The minutes will be written in accordance with the Minute Writing Guidelines.

50. Questions to Council from Members of the Public

(1) Questions to Council from members of the public will be considered as part of the order of business of an Ordinary Meeting only when submitted in the format outlined below:

(a) Questions must be in writing and lodged at the office of the Chief Executive Officer by 12 noon on the day of the next scheduled Ordinary Meeting.

(b) A limit of five (5) questions per questioner applies.

(c) Questions must include the name and address of the questioner and the date of the question. Questions by facsimile or email are acceptable.

(2) Within four (4) working days of receiving a complying question to Council from a member of the public, the Chief Executive Officer will dispatch a notice to the member of the public who submitted the question, advising that the question has been received.

(3) At a meeting at which a question is to be considered:

(a) The Chairperson will acknowledge that a question or questions have been received from a (named) person and ask if that questioner is in the gallery.

(b) If the questioner is present in the gallery, a summary of the subject matter of the question(s) will be read out by the Chairperson and the questioner advised that a written reply to the question(s) will be issued within 14 days of that meeting date.

(c) If the questioner is not in the gallery, Council will respond to the question(s) in accordance with any standard correspondence to Council.

(4) The Chairperson has the discretion to allow a question to be asked and/or answered at the meeting that is in variance with the procedure in this Local Law.

(5) The Chairperson may refuse to acknowledge a question if, in the opinion of the Chairperson, the question is, or is potentially, defamatory, indecent, offensive, abusive, objectionable in language or substance, irrelevant, trivial, aimed at embarrassing a Councillor or a member of Council staff, outside Council's powers or functions, has been asked at a previous Council Meeting and a reply issued, or relates to matters that come under section 89(2) of the Act.

(6) Any question relating to electoral matter during an Election Period will not be considered at any Council Meeting.

(7) A copy of the questions and responses will be tabled and inserted into the minutes of the following Council Meeting.

51. Petitions and Joint Letters

(1) A petition is a document that includes the whole of the wording of the request or prayer on every page. To be valid, a petition must contain the names, addresses and signatures of five (5) or more people.

(2) A joint letter is a letter containing a request signed by two (2) or more people. The signatures may be on one page or on multiple pages. To be valid, a joint letter must contain the name and address of at least one (1) person (in addition to the requirement that a joint letter be signed by two (2) or more people). It is not necessary for a joint letter to contain the whole of the wording of the request or prayer on each page.

(3) A petition or joint letter presented to Council must be in writing (other than pencil), typing or printing.

(4) A petition or joint letter may be presented by a Councillor to an Ordinary Meeting in accordance with the order of business.

(5) The Councillor presenting the petition or joint letter must sign or initial all the pages attached to the petition or joint letter before presenting it.

(6) Council will pass a motion to receive the petition or joint letter and that the petition or joint letter be referred to the relevant Council Officer for appropriate action with a copy of the petition or joint letter to be circulated to all Councillors.

(7) Any Councillor presenting a petition or joint letter is responsible for ensuring that:

(a) he or she is familiar with its contents and purpose; and

(b) the petition or joint letter is not defamatory, indecent, offensive, abusive or objectionable in language or substance.

52. Procedural Motions

(1) A procedural motion is one that deals with the conduct or process of the meeting itself.

(2) A substantive motion is a motion that deals with matters other than the conduct or process of the meeting.

(3) Procedural motions have precedence on substantive motions.

(4) A procedural motion must be dealt with in accordance with the table set out in Schedule 5.

(5) A procedural motion must be dealt with immediately by the Chairperson.

(6) Except for a procedural motion to defer an item, a procedural motion, once moved and voted upon, has no bearing on any substantive motion currently before the Chairperson.

53. Notices of Motion

(1) A notice of motion must be in writing and contain the names and signatures of at least two (2) Councillors, at a minimum, and be lodged with the office of the Chief Executive Officer, except for a rescission or alteration of resolution notice of motion, which requires three (3) Councillors to sign:

(a) In the case of a notice of rescission – in person or by facsimile as soon as reasonably practicable but not later than by close of business on the second business day after the meeting to which the notice of rescission applies. A notice of rescission must include the full text of the motion proposed to be rescinded, together with any alternative motion and an explanation for the proposal. In the case of a notice of rescission lodged by facsimile, the original must also be lodged as soon as practicable after the facsimile is sent; or

(b) In the case of any other notice of motion – in person, by post or by facsimile or email in sufficient time to enable the Chief Executive Officer to give each Councillor at least 48 hours' notice of it prior to the meeting at which the motion is proposed to be tabled and must include an explanation of the proposal.

(2) The Chief Executive Officer may reject any notice of motion that, in the opinion of the Chief Executive Officer, is vague or unclear in intention, is, or is potentially, defamatory, indecent, offensive, abusive, objectionable in language or substance, detrimental to the image or reputation of the Council, aimed at embarrassing a Councillor or a member of Council staff, or outside Council's powers or functions, but must:

(a) notify the Councillor that the Chief Executive Officer intends to reject the notice of motion and give the Councillor reasons for the proposed rejection and give the Councillor an opportunity to amend the notice of motion prior to rejection, if it is practicable to so amend; and

(b) if the amended notice of motion is submitted by the Councillor in response to sub-clause (2)(a) does not cure the defect in the notice of motion or creates a new reason for rejection, notify the Councillor that the notice of motion is rejected and the reasons for the rejection.

(3) The full text of any notice of motion must be included on the Agenda, unless:

(a) the notice of motion has been rejected in accordance with sub-clause (2)(b); or

(b) the Councillor has been notified that the notice of motion may be rejected in accordance with sub-clause (2)(a) and the notice of motion has not been amended prior to the agenda being finalised.

(4) The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the notice of motion book in the order in which they were received, except notices of motion that have been rejected in accordance with sub-clause (2)(b) and notices of motion in respect of which notice of intention to reject has been given in accordance with sub-clause (2)(a) and the notice of motion has not been amended.

(5) Except by leave of Council, each notice of motion before any meeting must be considered in the order in which they were entered in the notice of motion book.

(6) If a Councillor who has given a notice of motion:

(a) is absent from the meeting; or

(b) fails to move the motion when called upon by the Chairperson,

any other Councillor may move the motion, failing which, the motion lapses.

(7) The Chairperson cannot accept a notice of motion unless it has been listed on the Agenda for the meeting at which it is proposed to be moved.

(8) A notice of motion, whether or not amended, that has been voted on or lapsed cannot be resubmitted in materially the same form until a period of three (3) months has elapsed after the date of the meeting at which it was last considered.

54. Procedure on Motions and/or Amendments to Motions

(1) Calling for and carrying motions and/or amendments
The procedure to be followed when calling for and carrying motions and/or amendments is as follows:

(a) Before calling for a motion, the Chairperson may ask if there are any questions to Council officers on the item.

(b) The mover of a motion must state the nature of the motion without speaking to it.

(c) The Chairperson must call for a seconder to the motion.

(d) If there is no seconder, the motion lapses.

(e) If there is a seconder, the Chairperson must ask whether the motion is opposed.

(f) If no Councillor indicates opposition to a motion or amendment, the Chairperson may declare the motion or amendment to be carried without the motion or amendment being voted on. Such motions or amendments must be treated as having been passed unanimously.

(g) If a Councillor indicates opposition to a motion or amendment, before putting the motion or amendment to a vote, the Chairperson must request:

(i) the mover to address the meeting on the motion;

(ii) the seconder to address the meeting on the motion (provided that the mover may, without speaking on the motion, reserve his or her address until later in the debate);

(iii) any Councillor opposed to debate the motion; and

(iv) any other Councillors for and against the motion to debate in turn.

(h) A Councillor may speak once on a motion (subject to a right of reply in accordance with sub-clause (4)) and once on any amendment.

(i) A Councillor may be permitted by the Chairperson or by resolution to speak more than once to explain that he or she has been misrepresented or misunderstood.

(j) A Councillor calling the attention of the Chairperson to a point of order is not regarded as speaking to a motion or amendment.

(k) A Councillor may be permitted by the Chairperson to ask questions about a motion being debated.

(2) Amendments to motions
Proposed amendments to motions are to be dealt with as follows:

(a) Any Councillor, with the exception of the mover and seconder of the original motion, may move or second an amendment to a motion, provided that the Councillor has not previously spoken on the motion.

(b) A proposed amendment to a motion may propose to alter an original motion by leaving out, inserting or adding words to the original motion.

(c) A proposed amendment to a motion must be framed to complement the original motion, so that the amended motion will be an intelligible and consistent whole.

(d) Proposed amendments to a motion must be dealt with one at a time.

(e) A further proposed amendment to a motion must not be considered until any previous amendment is decided.

(f) After a proposed amendment is accepted by a vote of the meeting, it becomes part of the substantive motion and, providing another amendment has not been foreshadowed, the substantive motion as amended must be put immediately by the Chairperson.

(g) If a proposed amendment is moved but not accepted by a vote of the meeting no Councillor can move a subsequent amendment that is materially like the amendment that was unsuccessfully moved.

(3) Withdrawal of motions and amendments
Motions and proposed amendments can be withdrawn as follows:

(a) Before any motion is put to the vote, it may be withdrawn at the request of the mover and seconder with leave of the Chairperson.

(b) Before any amendment is put to the vote, it may be withdrawn at the request of the mover and seconder with leave of the Chairperson.

(4) Right of reply
Councillors have a right of reply in relation to motions as follows:

(a) The mover of an original motion that has not been amended may, once debate has been exhausted, exercise a right of reply to matters raised during the debate but must not raise any new matters.

(b) After any right of reply has been taken, the motion must be immediately put to the vote without any further discussion or debate.

(5) No right of reply for procedural motions
No right of reply is available where a procedural motion is before a meeting.

(6) Voting
The procedure for voting at Council Meetings is as follows:

(a) Voting is by a show of hands.

(b) All Councillors may vote unless prohibited from doing so in accordance with the Act.

(c) Subject to the Act, the Chairperson may exercise a casting vote.

(d) A Chairperson may declare a vote as unanimous if it appears to him or her that there is no opposition.

(7) Sequence for dealing with motions and amendments
Motions, amendments and foreshadowed motions are to be dealt with in the following sequence.

(a) Amendments to motions are to be considered in the sequence in which they are moved.

(b) When amendments have been considered, the motion is to be considered.

(c) If the motion is not carried, foreshadowed motions are then to be considered in the order in which they were foreshadowed.

(d) If the motion is carried, foreshadowed motions are to be considered to have been withdrawn.

(8) Motions that have been carried must be actioned by Council officers in a timely manner following the conclusion of the relevant Council Meeting.

55. Foreshadowed Motions and Amendments to Motions

(1) While a Councillor is speaking for/against a motion he or she may foreshadow a motion or an amendment to a motion so as to inform Council of their intention to move a motion or an amendment at a later stage in the meeting.

(2) Foreshadowing a motion or an amendment does not extend any special right to the foreshadowed motion or amendment.

(3) A statement foreshadowing a motion or amendment may advise that the motion or amendment is foreshadowed subject to a certain outcome of the standing motion.

(4) A foreshadowed motion or amendment has no procedural standing and is merely a means to assist the flow of the meeting.

56. Repeating a Motion or Question

(1) Before any matter is put to the vote, a Councillor may request that the question, motion or amendment be read again.

(2) The Chairperson, without being so requested, may direct the mover of a motion or the Chief Executive Officer to read the question, motion or amendment to the meeting before the vote is taken.

57. Form of a Motion

(1) A motion or an amendment must:

(a) be clear and unambiguous;

(b) relate to the powers or functions of Council;

(c) be in writing, if requested by the Chairperson or required by clause 53(1); and

(d) except in the case of urgent business under clause 62, be relevant to an item of business on the Agenda.

(2) A motion or amendment must not be defamatory, indecent, offensive, abusive, objectionable in language, substance or nature, irrelevant, trivial, aimed at embarrassing a Councillor or a member of Council staff, or outside Council's powers or functions.

58. Rescission or Alteration of a Resolution

A resolution made at any Council Meeting cannot be revoked, rescinded or altered in any subsequent meeting unless a written notice of rescission complying with clause 53(1)(a) is given to the Chief Executive Officer as soon as reasonably practicable and in any case by no later than the close of business on the second business day after the meeting at which the resolution was made

59. Reports of Special and Other Committees

(1) The Chairperson of each Committee must ensure that a report of the Committee is tabled at the next appropriate Ordinary Meeting following the meeting of the Committee.

(2) Pursuant to section 139(6A) of the Act, the Chairperson of the Audit Committee may require any report prepared by the Committee to be tabled at the next Ordinary Meeting of the Council.

(3) A report of a Special Committee must contain:

(a) the time, date and place of the meeting;

(b) the names of the members of the Committee and other people in attendance;

(c) the business of the meeting;

(d) the resolutions carried; and

(e) the time of the next meeting.

(4) A report of an Advisory Committee must contain:

(a) the time, date and place of the meeting;

(b) the members of the Committee and other people in attendance;

(c) the business of the meeting;

(d) the resolutions carried; and

(e) the time of the next meeting.

(5) The Chairperson may allow a member of any Committee to speak to the report or its outcomes or recommendations if requested to do so.

(6) A report from a Special Committee must be adopted by Council.

(7) The Chief Executive Officer must ensure that the written record of an assembly of Councillors is, as soon as practicable:

(a) reported at an ordinary meeting of the Council; and

(b) incorporated in the minutes of that Council Meeting.

60. Reports by Delegates

(1) A Delegate of Council is a Councillor who has been appointed by Council to represent Council on another body and is therefore responsible and accountable to Council for their actions as a Delegate.

(2) A Delegate of Council to another body must present a report to Council at the next appropriate Ordinary Meeting following the meeting of that body.

(3) If a Delegate gives a verbal report to Council then the duration of a verbal report is within the discretion of the Chairperson.

61. Other General Business

When dealing with Other General Business on the Agenda, a Councillor may make a statement on an issue of concern to the City or to a Ward, but there shall be no debate or resolution arising from that statement.

62. Urgent Business

(1) A Councillor proposing an item of urgent business must, without speaking to it, shortly state its nature and intent.

(2) Business cannot be admitted as urgent business unless it:

(a) relates to or arises out of a matter that has arisen since distribution of the Agenda;

(b) is manifestly urgent;

(c) is material to a power, duty or function of Council; and

(d) in the opinion of the Chairperson, cannot safely or conveniently be deferred until the next Ordinary Meeting.

(3) The following items cannot be treated as items of urgent business:

(a) the creation or abolition of any office;

(b) the appointment or termination of any person to any office or termination of that appointment;

(c) the sale or lease of any asset;

(d) preparation or adoption of the budget or a revised budget under Part 6 of the Act;

(e) approval of the Council Plan under section 125 of the Act;

(f) the declaration of any rate change;

(g) the adoption of a strategic plan required pursuant to any Act;

(h) the adoption of the Auditors' Report, Annual Financial Statements, Standard Statements and Performance Statement under Part 6 of the Act;

(i) the adoption of a proposed Council policy;

(j) determining under section 37 of the Act that an extraordinary vacancy on the Council not be filled;

(k) the return of a general valuation and any supplementary valuations;

(l) exempting a member of a Special Committee who is not a Councillor from submitting a return under section 81 of the Act; and

(m) the commitment of funds, or in-kind contributions, for any purpose exceeding $5,000.

(4) In the event that urgent business is admitted, a resolution must not be considered in urgent business unless:

(a) all Councillors, excluding those granted leave of absence, are present and Council resolves by a simple majority that the resolution should be considered as urgent business in all of the circumstances; or

(b) a simple majority of those Councillors then present at the meeting resolves that the resolution should be considered in view of the extreme urgency of the situation.

63. Questions to Council Officers from Councillors

(1) A Councillor may, at an appropriate time of a Council Meeting and in the appropriate form, direct a question to a Council officer.

(2) The Chief Executive Officer may request the Chairperson to direct the Councillor to withdraw the question and excuse the officer from answering the question if, in the opinion of the Chief Executive Officer, the question is, or is potentially, defamatory, indecent, offensive, abusive, objectionable in language, substance or nature, irrelevant, trivial, aimed at embarrassing a Councillor or a member of Council staff, or outside Council's powers or functions.

(3) The Chief Executive Officer may instruct a Council officer not to answer a question if, in the opinion of the Chief Executive Officer, the question is, or is potentially, defamatory, indecent, offensive, abusive, objectionable in language, substance or nature, irrelevant, trivial, aimed at embarrassing a Councillor or a member of Council staff, or outside Council's powers or functions.

(4) If a Council officer is unable to provide an answer to a question from a Councillor, the officer shall provide and circulate to all Councillors a written answer as soon as is practicable, but in any event not later than five (5) working days after the meeting at which the question is asked.

64. Confidential Business

Confidential Business may be transacted in a meeting that is closed in accordance with the section 89(2) of the Act and clause 47(2).

65. Time Limit for Meetings

(1) A Council Meeting must not continue after 11pm unless a majority of Councillors present vote in favour of its continuance.

(2) In the absence of such continuance, the meeting must stand adjourned to a time, date and place to be then and there announced by the Chairperson.

(3) If all Councillors are not present when the meeting is adjourned, the Chief Executive Officer must give notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.

(4) Despite sub-clause (3), this requirement does not apply in respect of any Councillor who has been granted leave of absence pursuant to section 69 of the Act and who has not requested the Chief Executive Officer, in writing, to continue to give notice of meetings to be held during the period of leave of absence.

66. Vote to be Taken in Silence

(1) Except that a Councillor may demand a division, Councillors must remain seated and in silence while a vote is being taken.

(2) Except where this Local Law provides otherwise or Council otherwise determines, voting must be by a show of hands.

(3) Unless prohibited by the Act, each Councillor present at the meeting may vote.

67. Recount of Vote

The Chairperson may direct that the vote be re-counted as often as may be necessary to satisfy himself or herself of the result.

68. Casting Vote

(1) Subject to section 90(1)(e) of the Act and this Local Law, if there is an equal division of votes upon any question, the Chairperson at such meeting shall, in addition to their own vote as a Councillor, have a second or casting vote.

(2) Sub-clause (1) does not apply to Statutory Meetings.

69. Division

(1) A division may be used to formally record the names of individual Councillors opposing or supporting a motion, who are absent or who are abstaining from voting.

(2) A division may be requested by any Councillor on any item of business.

(3) A request for a division must be made to the Chairperson either immediately prior to or immediately after the vote has been taken but cannot be requested after the next item of business has commenced.

(4) A Councillor may change their original vote at the voting on a division.

(5) One request for a division is permitted per item of business.

(6) The voting by division will determine Council's resolution on the item of business.

(7) If a division is called for, the Chairperson must:

(a) first ask each Councillor wishing to vote in the affirmative to stand and, upon such request being made, each Councillor wishing to vote in the affirmative must stand, except if that Councillor is prevented from doing so by reason of illness or infirmity, in which case the Councillor must inform the Chairperson he or she is not able to stand and wishes to record his or her vote by show of hand. The Chairperson must then state the names of those Councillors voting in the affirmative;

(b) then ask each Councillor wishing to vote in the negative to stand and, upon such request being made, each Councillor wishing to vote in the negative must stand, except if that Councillor is prevented from doing so by reason of illness or infirmity, in which case the Councillor must inform the Chairperson he or she is not able to stand and wishes to record his or her vote by show of hand. The Chairperson must then state the names of those Councillors voting in the negative; and

(c) then ask each Councillor wishing to abstain to stand and, upon such request being made, each Councillor wishing to abstain must stand, except if that Councillor is prevented from doing so by reason of illness or infirmity, in which case the Councillor must inform the Chairperson he or she is not able to stand and wishes to record his or her abstention by show of hand. The Chairperson must then state the names of those Councillors abstaining from voting.

(8) The Chief Executive Officer must record in the minutes:

(a) the names of the Councillors voting in the affirmative;

(b) the names of the Councillors voting in the negative;

(c) the names of the Councillors abstaining from voting;

(d) the names of the Councillors who are absent from the meeting; and

(e) the details of any casting vote,

and advise the Chairperson of the result.

(9) The Chairperson must declare the result of the vote on the division as soon as it is taken.

70. Election of Chairpersons and Delegates

(1) When determining:

(a) the chairperson for an Advisory Committee or a Special Committee; or

(b) Delegates to another organisation,

Council must follow, as nearly as is practicable, the procedure for election of Mayor set out in Division 2.

71. A Recording/Transcript of a Council Meeting May be Requested

(1) A Councillor may request an audio copy of a Council Meeting or Committee meeting (if recorded).

(2) A request for a copy of a transcript in relation to an Agenda item or items of a Council Meeting or Committee meeting must:

(a) be submitted in writing to the Chief Executive Officer;

(b) specify the agenda item or items in relation to which the copy of the transcript is sought; and

(c) be made no later than six weeks after the date of the Council Meeting or Committee meeting in question.

72. Cases in Which a Councillor Must Rise When Speaking

(1) Except in the case of sickness or infirmity, a Councillor must rise when speaking at a Council Meeting.

(2) The Chairperson may remain seated when speaking at a Council Meeting.

(3) It is not necessary to rise when speaking at a Committee Meeting.

73. Interruptions, Interjections and Relevance

(1) A Councillor must not be interrupted except by the Chairperson or upon a point of order or personal explanation.

(2) If a Councillor is interrupted by the Chairperson or upon a point of order or personal explanation, the Councillor must be seated and remain silent until the Chairperson has ceased speaking, the point of order has been determined or the personal explanation has been given (as appropriate).

(3) A Councillor must not digress from the subject matter of the motion or business under discussion.

(4) The mover of a motion must not introduce a fresh matter when exercising any right of reply.

74. Resumption of Adjourned Debate

(1) With the agreement of the meeting members, the Chairperson may adjourn the debate on a motion or amendment to a later time at the same meeting.

(2) If a debate is adjourned by resolution, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless that Councillor has already spoken to the motion or amendment.

75. Time Limits

(1) At an Ordinary Meeting, a Councillor may not speak on any item longer than the time set out in Table 1 unless granted an extension by the majority of Councillors present at the meeting:

Table 1

Councillor or other person	Time
The mover of the motion	Five (5) minutes
The mover of an amendment	Three (3) minutes
Any other Councillor	Two (2) minutes
The mover of a motion exercising the right of reply	Two (2) minutes
A Council Delegate or Committee Chairperson reporting to Council	Two (2) minutes

(2) At an Ordinary Meeting, a Councillor may not speak longer than three (3) minutes on a point of order or a personal explanation unless granted an extension by the majority of Councillors present at the meeting.

(3) The Chairperson may grant an extension of up to five (5) minutes under sub-clauses (1) and (2).

76. When the Chairperson May Speak

(1) The Chairperson may address a meeting upon any matter under discussion and is not deemed to have left the Chair on such occasions. However, such addresses should only take place after all other Councillors have had the opportunity to address the meeting.

(2) Despite sub-clause (1), the Chairperson may vacate the Chair for the duration of any item under discussion whereupon the temporary Chairperson (determined in accordance with clause 35(4) or 35(5) (as appropriate) must take the Chair until such item has been disposed of.

77. Code of Conduct

All Councillors must comply with the Councillor's Code of Conduct.

78. Point of Order

(1) A point of order may be raised in relation to:

(a) a matter that is contrary to this Local Law;

(b) abusive or objectionable language or behaviour;

(c) a matter that is irrelevant;

(d) an error of fact;

(e) a Councillor who is or appears to be out of order; and

(f) any act of disorder.

(2) The Chairperson must rule on a point of order and give reasons for the ruling at the time the point of order is raised. If the Chairperson is unable to rule on a point of order at the time it is raised, the Chairperson may adjourn the meeting to consider the point of order.

(3) Once raised, all matters before Council are suspended until the point of order is decided.

(4) A Councillor raising a point of order must state:

(a) the point of order; and

(b) the provision of this Local Law, or section, clause, paragraph, or practice or precedent relied upon to found the point of order.

(5) The Chairperson is the final arbiter of all points of order unless Council resolves to dissent.

(6) A motion of dissent on a point of order must contain the provision of this Local Law, or section, clause, paragraph, or practice or precedent in substitution for the Chairperson's ruling.

(7) A motion of dissent on a point of order will take precedence over all other business and if carried must be acted on instead of the ruling given by the Chairperson.

79. Personal Explanations

(1) A Councillor may, at a time that is convenient to Council, make a brief personal explanation in respect of any statement (whether made at a Council Meeting or not) affecting his or her role as a Councillor.

(2) A personal explanation arising out of a statement at a Council Meeting must be made as soon as possible.

(3) A personal explanation must not be debated except upon a motion to censure a Councillor against whom a censure motion is moved.

80. Ordering a Withdrawal of a Remark and Apology

(1) The Chairperson may order a Councillor to withdraw any remark that, in the opinion of the Chairperson, is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.

(2) A Councillor ordered to withdraw a remark must do so immediately without qualification or explanation.

(3) The Chairperson may order a Councillor to apologise for any remark that, in the opinion of the Chairperson, is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.

(4) A Councillor ordered to apologise for a remark must do so immediately without qualification or explanation.

81. Gallery to be Silent

(1) Visitors must not interject or take part in the debate.

(2) The gallery must be silent at all times during any Council Meeting.

(3) The ring tones of mobile telephones and other devices must be turned off by people in the gallery at all times.

82. Suspension from Meetings

(1) If, during a Council Meeting, a Councillor disrupts the meeting or fails to comply with any procedure specified in this Local Law, Council may resolve to suspend the Councillor from the meeting for a period determined in the discretion of the Chairperson, but not more than the balance of the meeting.

(2) Upon suspension under sub-clause (1), the Councillor must immediately leave the Council Meeting.

(3) A Councillor must not be suspended under sub-clause (1) unless:

(a) the Chairperson has warned the Councillor in question; and

(b) Council resolves that the Councillor's actions following the Chairperson's warning:

(i) are continuing to disrupt the meeting; or

(ii) continue to fail to comply with any procedure specified in this Local Law; and

(iii) that the Councillor should be suspended.

83. Ejection of Disorderly Visitors

(1) The Chairperson may call to order any member of the gallery who, in the opinion of the Chairperson:

(a) is disruptive or unruly;

(b) says anything that is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature; or

(c) is in breach of this Local Law;

during a Council Meeting.

(2) If a member of the gallery is called to order by the Chairperson and thereafter again, in the opinion of the Chairperson:

(a) is disruptive or unruly; or

(b) says anything that is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature; or

(c) is in breach of this Local Law,

the Chairperson may order that person to leave the meeting.

(3) If a member of the gallery ordered to leave a meeting under sub-clause (2) fails to leave the meeting, the Chairperson may order that person to be removed from the gallery pursuant to clause 84.

84. Removal from Chamber of a Councillor or Member of the Public

The Chairperson, or Council in the case of a suspension under clause 82, may ask any Authorised Officer or member of Victoria Police to remove from the meeting (including the gallery):

(1) any person who the Chairperson has ordered to be removed under clause 83(3); or

(2) any Councillor who has been suspended under clause 82 and who has not immediately left the Council Meeting.

85. Disorderly Visitors May be Banned from Council Meetings

This clause has now been deleted from the Local Law.

86. Chairperson May Adjourn a Disorderly Meeting

If there is disorder in the vicinity of a Council Meeting the Chairperson may adjourn the meeting to a later time on the same day or to some later day as thought to be proper.

87. Production of a Document

(1) A Councillor may, at a Council Meeting, require the production of any documents kept in the municipal offices that are directly relevant to the business being considered.

(2) Upon any demand being made, the Chief Executive Officer must apply his or her best endeavours to produce the documents at the meeting or, if this is not feasible, as soon as practicable after that time.

(3) If a document is not immediately available for production, Council may resolve to defer consideration of an item of business, unless it is an item of business in respect of which a call of Council has been convened under section 85 of the Act, to later in the meeting, or to the next appropriate meeting. If Council does not resolve to defer the item, then, notwithstanding the right conferred on a Councillor under clause 87(1), may proceed to consider and determine the item of business.

88. Recording or Filming Proceedings

(1) A person must not operate an audio tape, mobile telephone or other recording or transmitting equipment or film ('a device') at any Council Meeting without first obtaining the consent of the Chairperson.

(2) Consent given under sub-clause (1) may be revoked by the Chairperson at any time during the course of a meeting.

(3) If a device is operated, or suspected of being operated, in contravention of sub-clause (1), the Chairperson may:

(a) order the person operating, or suspected of operating, the device to produce the device to the Chairperson; and

(b) arrange for any matter that has been recorded on the device in contravention of sub-clause (1) to be deleted, erased or otherwise removed from the device.

(4) Subject to sub-clause (5), the Chairperson shall return any device that has been produced to him or her pursuant to sub-clause (3) at the conclusion of the relevant Council Meeting.

(5) If the Chairperson has been unable to arrange for the matter that has been recorded on the device in contravention of sub-clause (1) to be deleted, erased or otherwise removed from the device, the device shall be returned to the person as soon as practicable after the deletion, erasure or removal has been carried out.

89. Procedure Not Provided in Local Law

(1) Where a procedure has not been specifically provided for by this Local Law, resort must be had to the rules, forms and usages of the Victorian Parliament (so far as they can be applied to Council proceedings).

(2) Where a procedure has not been provided for under this Local Law and the Victorian Parliament does not have a relevant rule, form or usage, Council may determine the procedure by resolution.

90. Suspension of Local Law in Relation to the Meeting Procedure

(1) The operation of any clause of this Local Law in relation to meeting procedure may be suspended by resolution of Council unless such suspension of operation would be inconsistent with the Act.

(2) A reason for the proposed suspension under sub-clause (1) must be given in the motion to suspend the operation of the Local Law.

(3) No motion may be moved or be lawfully dealt with during any suspension of the meeting procedure provisions of this Local Law unless in the discretion of the Chairperson it is appropriate to do so.

(4) Once appropriate discussion has taken place and before any motions can be put, meeting procedure provisions of this Local Law must be resumed.

91. Meeting Offences

It is an offence:

(a) for a Councillor to not withdraw a remark that is considered by the Chairperson to be defamatory, indecent, abusive, offensive, disorderly or objectionable, and/or to not satisfactorily apologise when called upon twice by the Chairperson to do so;

(b) for any person, not being a Councillor, who is guilty of any improper or disorderly conduct to not leave the meeting or gallery (as the case may be) when requested by the Chairperson to do so;

(c) for any person to fail to obey a direction of the Chairperson relating to the conduct of the meeting and the maintenance of order; or

(d) for a Councillor to refuse to leave the chamber on suspension under clause 82(1).

Division 4 – Special Committees Composed Solely of Councillors

92. Purpose

The purpose of this Division is to regulate:

(a) proceedings at meetings of Special Committees composed solely of Councillors pursuant to section 91(1) of the Act; and

(b) notice to be given of meetings of Special Committees composed solely of Councillors.

93. Application Generally

(1) Except as provided in this Division, if Council establishes a Special Committee composed solely of Councillors, Division 3 of this Local Law applies with any necessary modifications.

(2) For the purposes of sub-clause (1), a reference in Division 3 to:

(a) a Council Meeting is to be read as a reference to a meeting of the Special Committee composed solely of Councillors;

(b) a Councillor is to be read as a reference to a member of the Special Committee; and

(c) the Chairperson is to be read as a reference to the Chairperson of Special Committee.

94. Quorum

The quorum for a meeting of a Special Committee is a majority of the number of members of the Special Committee.

95. Notice of Meetings

The requirements for public notice of any Council Meeting also apply to any meeting of a Special Committee.

96. Public Submissions

(1) Councillors must at such time as is allocated by it or by Council hear any person wishing to be heard in respect of a submission to Council under section 223 of the Act.

(2) Members of any Special Committee composed solely of Councillors may, through the Chairperson, question any submitter in relation to a submission to Council under section 223 of the Act.

97. Application Specifically

If Council establishes a Special Committee composed solely of Councillors:

(a) Council may; or

(b) the Special Committee may, with the prior approval of Council,

resolve that a provision of Division 3 does not apply.

98. "Call-up" Requests by Other Councillors

(1) If Council establishes a Special Committee composed solely of Councillors who have delegated powers, the Chief Executive Officer must ensure that all Agendas for meetings of that Committee are provided to all Councillors (whether or not members of the Committee).

(2) A Councillor who is not a member of a Special Committee who has delegated powers or who cannot attend a meeting of such a Special Committee may give notice in writing to the Chairperson of that Special Committee that an item is to be "called up" for consideration by Council.

(3) If a Chairperson receives notice that an item is to be "called up" the Special Committee may consider that item and make a recommendation to Council about it, but must not exercise a delegated power in relation to it.

Division 5 – Other Committees

99. Purpose

The purpose of this Division is to regulate proceedings at meetings of Special Committees (other than those composed solely of Councillors) and of Advisory Committees as required by section 91(1) of the Act.

100. Application Generally

(1) If Council establishes:

(a) a Special Committee (other than those composed solely of Councillors); or

(b) an Advisory Committee,

Division 3 of this Local Law applies with any necessary modifications.

(2) For the purpose of sub-clause (1), a reference in Division 3 to:

(a) a Council Meeting is to be read as a reference to a meeting of the Special Committee or Advisory Committee (as appropriate);

(b) a Councillor is to be read as a reference to a member of the Special Committee or Advisory Committee (as appropriate); and

(c) the Chairperson is to be read as a reference to the Chairperson of the Special Committee or Advisory Committee (as appropriate).

101. Application Specifically

(1) Notwithstanding clause 100(1), if Council establishes:

(a) a Special Committee (other than those composed solely of Councillors); or

(b) an Advisory Committee,

then:

(i) Council may; or

(ii) that Special Committee or Advisory Committee (as appropriate) may, with the approval of Council,

resolve that a provision of Division 3 does not apply.

(2) Councillors may be appointed as members of, or Delegates to, external organisations or committees only by resolution of Council.

(3) Councillors appointed to external organisations or committees must report to the first appropriate Council Meeting following each organisation/committee meeting.

Division 6 – Supply of Information

102. Purpose

The purpose of this Division is to enable fees to be charged for the supply of information.

103. Supply of Information

A General Manager may charge fees, as set by Council from time to time, for the supply of accounts and records of Council to members of the public, unless such charges are inconsistent with provisions of the Act or any other legislation.

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104. Interference with Council Drains, Sewers or Similar

(1) A person must not, without a Permit:

(a) destroy;

(b) damage;

(c) interfere with;

(d) excavate; or

(e) tap into,

any drain vested in Council.

(2) A person must not, without a Permit:

(a) destroy;

(b) damage;

(c) interfere with;

(d) excavate; or

(e) tap into,

any sewer, watercourse, ditch, creek, gutter, tunnel, bridge, levee, culvert or fence which is in, on or under Council Land.

105. Maintenance of Drains

(1) The owner and occupier of land must ensure that any drain on the land that is not vested in Council or another public authority is operated for the purpose for which it was designed.

(2) The owner and occupier of land must ensure that any drain on the land that is not vested in Council or another public authority is maintained in a condition that is not unsightly or a nuisance.

106. Drainage of Properties

(1) The owner and occupier of land must ensure:

(a) that the land is adequately drained to the satisfaction of an Authorised Officer;

(b) that the land does not discharge water that is a nuisance to an owner or occupier of adjoining land; and

(c) water does not discharge from an air conditioner or other equipment onto a footpath.

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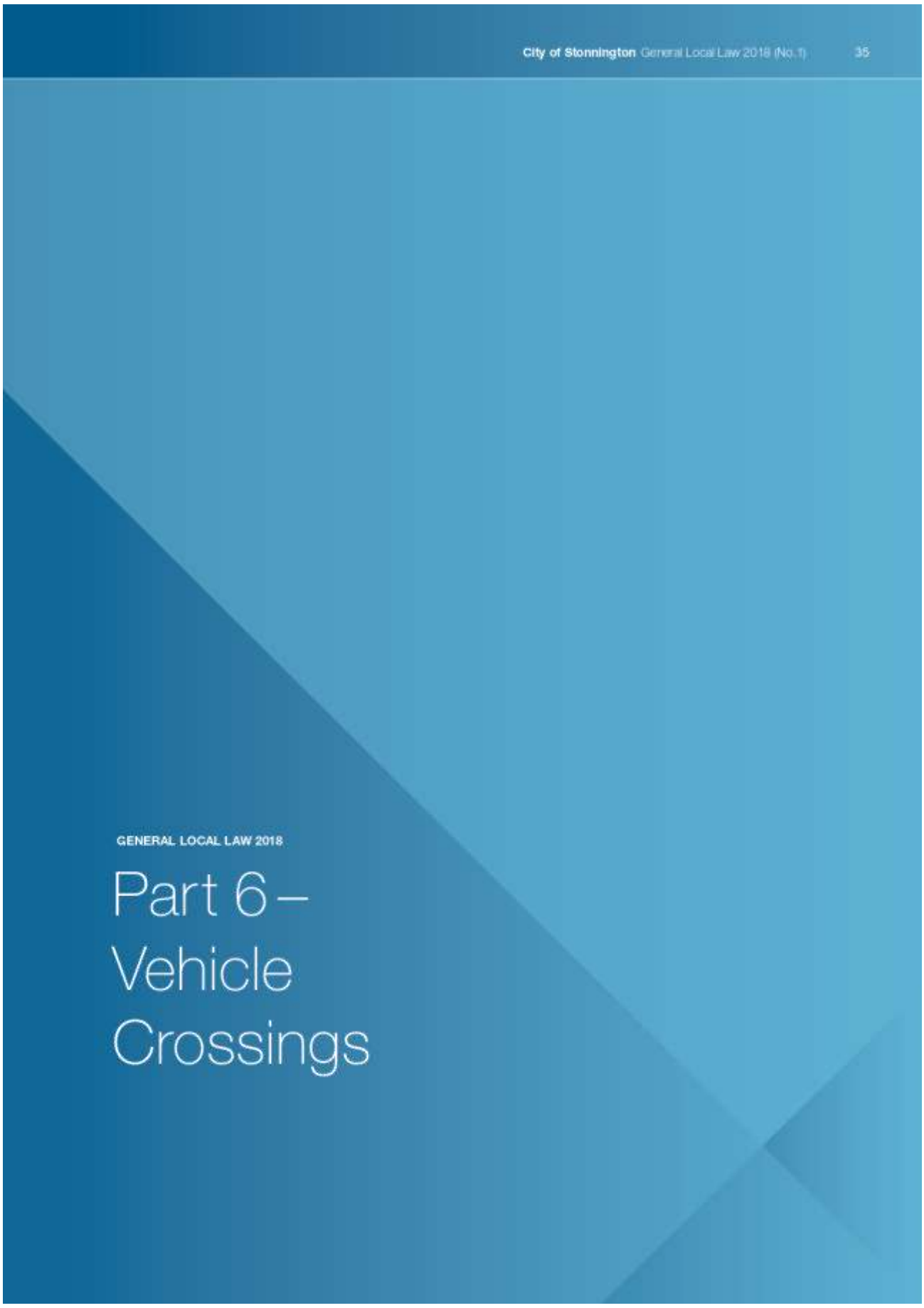

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107. Vehicle Crossings

(1) The owner and occupier of land must ensure that each point of vehicular access from a Road to the land has an appropriately constructed vehicle crossing.

(2) A person must not cause, allow or drive a Motor Vehicle from or onto land other than by an appropriately constructed vehicle crossing.

(3) Council may serve a Notice to Comply on the owner and occupier of land requiring the repair, removal or replacement of a vehicle crossing.

108. Temporary Vehicle Crossings

(1) A person must construct a temporary vehicle crossing, to the satisfaction of an Authorised Officer, where it is likely that a Motor Vehicle accessing or leaving land, by reason of its nature, size or weight, may damage a kerb, gutter, nature strip, footpath or vehicle crossing.

(2) If a temporary vehicle crossing has been constructed in accordance with sub-clause (1), a person must not allow a Motor Vehicle to enter the land or exit the land other than by using the temporary vehicle crossing.

(3) A person who fails to comply with sub-clause (1) or (2) must repair any damage caused to the kerb, gutter, nature strip, footpath, vehicle crossing or other latent damage or, if Council elects to repair any damage, pay to Council the cost of repairing the damage.

109. Repair of Vehicle Crossings

The owner and occupier of land must ensure that each vehicle crossing to that land from an adjacent Road and any channel or pipe under or forming part of that crossing are maintained.

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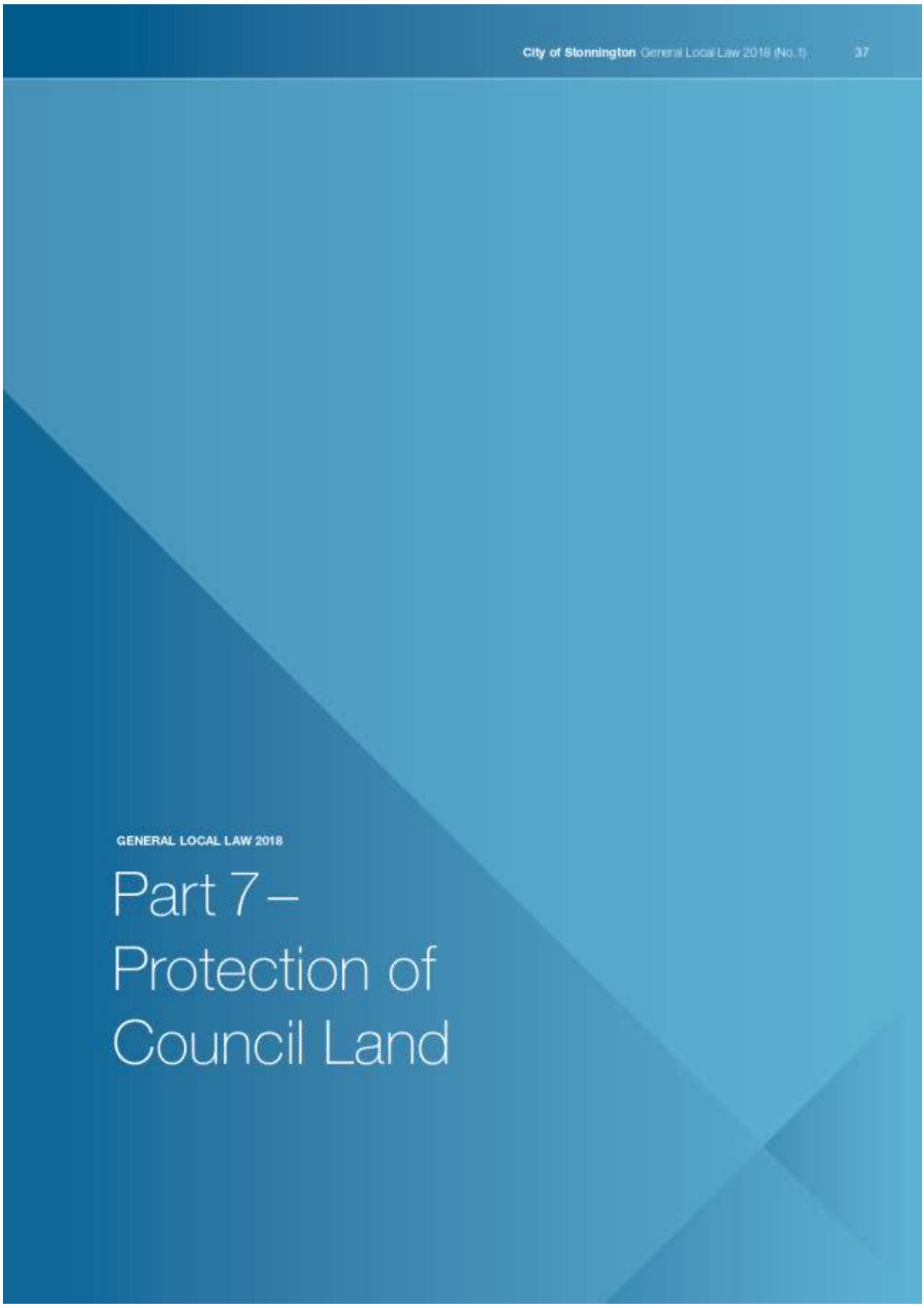

110. Defacing/Damaging Council Land

(1) A person must not, without a Permit, destroy, damage, remove or interfere with:

(a) Council Land;

(b) any building, structure or any other thing on Council Land;

(c) anything belonging to Council on Council Land unless allowed by the Council, whether under this Local Law or otherwise; and

(d) any Council property or assets owned or managed by Council and located on or in any Council Land.

(2) A person must not authorise or engage any other person to undertake the activities in sub-clause (1).

111. Lighting Fires

(1) A person must not, without a Permit, light or allow to be lit on or in any Council Land (except where permitted in a Council Reserve):

(a) any Fire; or

(b) a Barbecue.

112. Trees or Plants Causing Damage to Council Land

The owner and occupier of land must not allow a tree or plant on that land to cause damage to or interfere with Council Land or a building, structure or anything on Council Land.

113. Trees and Plants on Council Land

(1) A person must not, without a Permit, remove, damage, kill or destroy any tree or plant on Council Land.

(2) A person must not, without a Permit, prune, cut, trim, or interfere with in any way, any tree or plant on Council Land.

114. Temporary Buildings on a Road

A person must not, without a Permit, for the purpose of enabling any works to be carried out in, on or over a Road:

(a) occupy or fence off a Road, or part of a Road; or

(b) erect a structure or temporary crossing for vehicles in, on or over a road.

115. Damage to Kerbs, Paths and Other Assets from Building Work

(1) If a Building Permit is required for building work on land and that building work, person or class of persons have not been exempted (in accordance with the Procedure and Protocol Manual):

(a) the owner of the relevant land;

(b) the builder engaged to carry out building work on the land;

(c) any appointed agent; or

(d) any demolition contractor engaged to demolish some object on the land as part of the building work,

must:

(a) not carry out or allow to be carried out building work on that land unless a Permit has been obtained;

(b) not carry out or allow to be carried out building work on that land in breach of any conditions of a Permit that has been obtained; and

(c) pay any Asset Protection Permit bond determined by Council from time to time, in accordance with the Procedure and Protocols Manual.

(2) Council may exempt any building work, person or class of persons from the requirement of a Permit.

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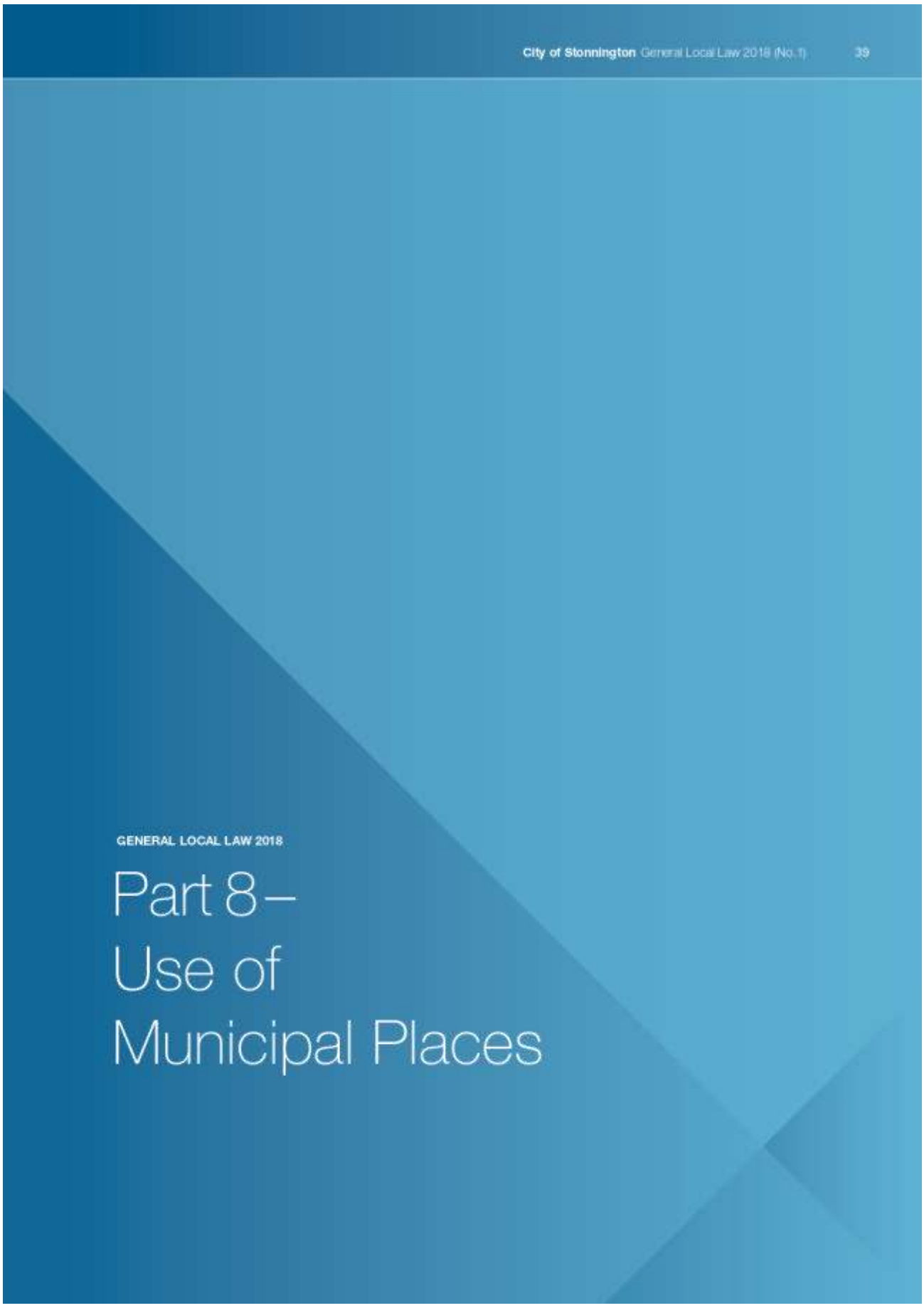

116. Prohibition of Entry

A person must not, without a Permit or in accordance with any other law:

(a) enter or remain in a Municipal Place without paying the appropriate fee (if any);

(b) enter or remain in a Municipal Place if that person is less than 10 years of age (except if in the care of an adult guardian);

(c) enter or remain in a Municipal Place if that person has been excluded from a Municipal Place by a person authorised to do so;

(d) re-enter a Municipal Place within 24 hours (or such other time as directed) after being excluded from a Municipal Place;

(e) enter a Municipal Place if that person is suffering from any disease that presents a risk to the health of any other person;

(f) enter a Municipal Place if that person is under the influence of alcohol or any other drug;

(g) enter or leave a Municipal Place other than through an entrance or exit provided for the public for that purpose (unless the person is to use a specifically designated exit or entry); or

(h) have in their possession in or on a Municipal Place any Liquor or other drug.

117. Behaviour

(1) A person must not while in or on a Municipal Place:

(a) behave in a manner that is offensive, indecent, insulting or riotous or engage in any conduct that is dangerous or that interferes with any other person;

(b) act contrary to any sign or procedure in respect of the use of the Municipal Place;

(c) enter or use any dressing room, shower or convenience or any passage leading to it that has been appointed or appropriated to people of the opposite sex unless that person is a child under the age of six (6) years in the care of a responsible person of the opposite sex or a person authorised by the Manager;

(d) have any Animal in their possession other than an Assistance Animal;

(e) eat or drink other than in an authorised area;

(f) sell or hire any Goods in the Municipal Place other than with the written consent of a Manager or in accordance with a Permit;

(g) distribute, leave, post or display any pamphlet, poster, handbill or literature other than with the consent of a Manager; or

(h) use any computer or other device in a Municipal Place for the downloading or display of pornography, illegal, offensive or inappropriate pictures, words, works or any other thing.

(2) Council may determine any sign or procedure for the purpose of clause 1(b).

(3) Council or an Authorised Officer may erect and display any sign or procedure for the purpose of clause 1(b).

118. Terms and Conditions of Admission to, or Membership of, a Municipal Place

(1) A person must:

(a) comply with the terms and conditions of a membership or ticket of admission to any Municipal Place; and

(b) not sell, transfer, give to or share a membership or ticket of admission to any Municipal Place with any other person.

119. Prohibited Articles

(1) A person must not, without the consent of Council or a Manager, bring into, cause or allow to be brought into or remain in any part of a Municipal Place:

(a) any wheeled Vehicle, skateboard, scooter or similar thing other than a pram or pusher with a child, a wheelchair for the purpose of assisting a person with a disability or a trolley or other similar device used in the process of assisting the delivery or removal of goods;

(b) any ball or other inflatable rubber or plastic article that may interfere with the use or enjoyment of any person of the Municipal Place or any part of it;

(c) any glass or thing containing glass other than a wristwatch, spectacles or thing for testing or sampling purposes pursuant to Regulations made under the **Public Health and Wellbeing Act 2008**; or

(d) any chemical, substance, liquid or powder that, in the opinion of a member of Council staff, is dangerous to health or has the potential to foul, pollute or soil any part of a Municipal Place or to cause discomfort to any person in a Municipal Place by any means whatsoever.

120. Directions

(1) A person on Council Land must at all times observe and comply with any reasonable direction of a member of Council staff.

(2) A person who fails to comply with a direction given under sub-clause (1) is guilty of an offence.

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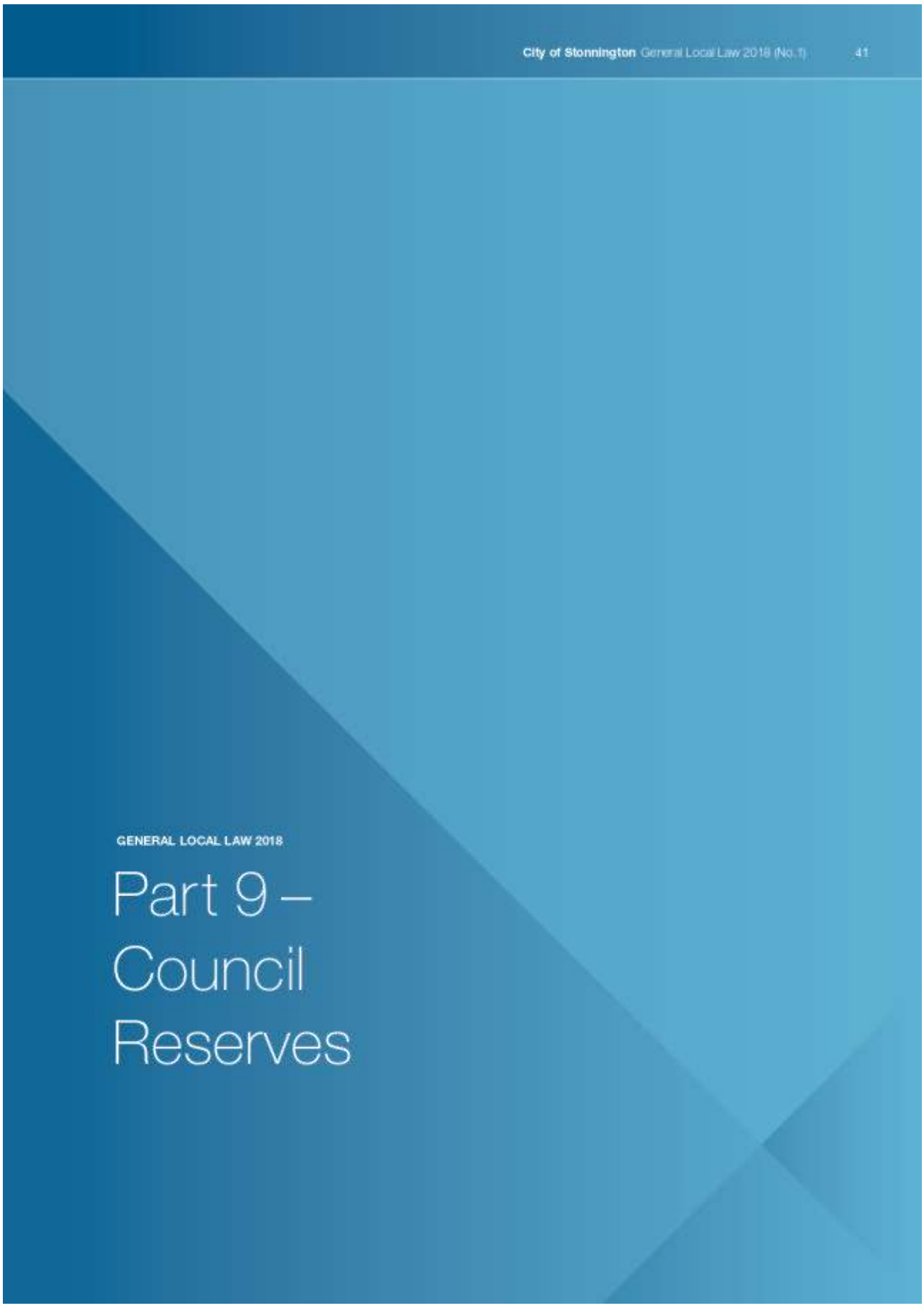

121. Access to Council Reserves

(1) A person must not, without a Permit, construct an opening or gate in a fence to access a Council Reserve from residential land.

(2) A person must not use an opening or gate in a fence to access a Council Reserve from residential land unless in accordance with a Permit.

122. Use of Council Reserves

A person must not, without a Permit, in or on any Council Reserve:

(a) pitch, erect or occupy any tent, marquee or temporary shelter, or any jumping castle, amusement ride or other recreational infrastructure;

(b) operate or allow to be operated any amusement for which a charge is made;

(c) light any Fire or allow any Fire to remain alight unless in a fireplace provided by Council;

(d) use a Barbecue other than a gas Barbecue;

(e) hold any circus, carnival, fair, event, commercial or promotional activity;

(f) conduct or attend any rally, procession, demonstration or other public gathering;

(g) sell, hire or give away any Goods or other thing;

(h) erect, fix, place or display any advertisement;

(i) seek a collection of money for any purpose;

(j) conduct or celebrate any wedding;

(k) conduct an Occasional Event;

(l) conduct, participate, prepare or train for any competitive game or sport;

(m) engage in, play or practice golf, archery or any other game that may interfere with the use or enjoyment of the reserve by any other person;

(n) unless the person is a player, official or competitor at any sports match or sports gathering authorised under this clause, enter or remain within or upon the playing arena during the progress of such sports match or sports gathering;

(o) conduct personal training services for individuals or groups for which a charge is made;

(p) ride or drive any horse or Motor Vehicle, except the parking of any Motor Vehicle in any parking area set aside for that purpose by Council;

(q) park or leave standing any Motor Vehicle except in any parking area set aside for that purpose by Council;

(r) use or operate a motorised toy car, segway or other motorised recreational vehicle or toy;

(s) land helicopters or hot air balloons other than in an emergency; or

(t) enter any plot or area that is set aside for the planting or growing of plants.

123. Restrictions

(1) A person must not:

(a) fly or allow to be flown any model aeroplane, remote-controlled helicopter or drone over a Council Reserve unless in a Council Reserve specified in the **Procedure and Protocol Manual**;

(b) enter a Council Reserve unless that person pays the required charge or entry fee (where applicable);

(c) consume Liquor in a Council Reserve or designated part of a reserve unless in accordance with any exemption specified in the **Procedure and Protocol Manual**;

(d) interfere with or remove a structure, notice, building, seat, tree or plant;

(e) get on or over any fence or gate;

(f) spit upon or otherwise foul any path or structure;

(g) shoot, attempt to shoot, snare or attempt to snare, destroy or attempt to destroy any Animal;

(h) interfere with, hinder or interrupt any member of Council staff or a member of a management committee of the reserve engaged in any duty;

(i) behave in a manner that is offensive, indecent, insulting, riotous or disorderly or engage in any conduct that is dangerous or that interferes with any other person;

(j) ride a bicycle, children's toy, skateboard or skates in a manner that may interfere with the use or enjoyment of any part of the Council Reserve by any other person;

(k) remain at any time when directed to leave the reserve by an Authorised Officer or member of Council staff (even though a fee or charge for admission may have been paid);

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(l) do anything that may endanger a person; or

(m) act contrary to a sign erected or authorised by Council or a management committee in respect to the use of the reserve or the conduct of a person in the reserve.

(2) If an Authorised Officer believes that a person is contravening or has contravened sub-clause (1)(c), the Authorised Officer may direct the person to seal any container or dispose of the contents of any unsealed container.

(3) A person who fails to obey a direction of an Authorised Officer under sub-clause (2) is guilty of an offence.

(4) Council may designate any area within a Council Reserve for the purpose of clause 1(a).

(5) Council may determine any sign for the purpose of clause 1(m).

(6) Council or an Authorised Officer may erect and display any sign for the purpose of clause 1(m).

(7) Council may prescribe the consumption of liquor in a Council Reserve or prescribed part of a reserve other than in accordance with the requirements specified in the **Procedure and Protocol Manual**;

(8) Council may designate a Council Reserve or part of a Council Reserve for the purpose of clause 1(c).

(9) Council may exempt a Council Reserve or part of a Council Reserve for the purpose of clause 1(c).

(10) Council may prescribe an event that is exempt from the requirement of clause 1(c).

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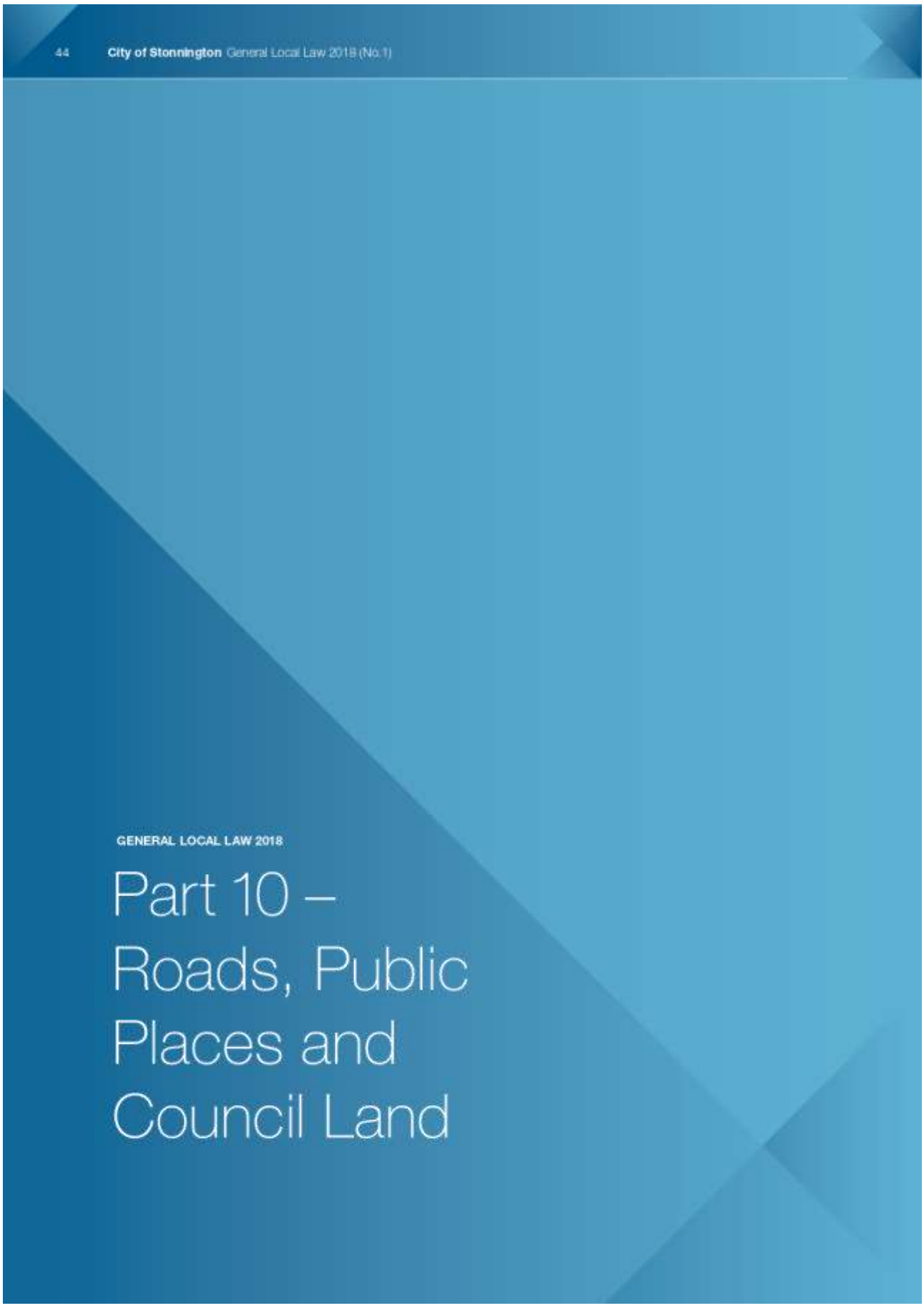

124. Application

This Division applies to Roads, Public Places and Council Land within the Municipal District.

125. Shopping Trolleys

(1) A person must not make available for use, or permit to be used, a shopping trolley that does not have a device that is attached and used so as to ensure the return of the shopping trolley to an area specifically designated for storing shopping trolleys.

(2) Sub-clause (1) does not apply if the person makes available or permits to be used 25 shopping trolleys or less or where the trolley is fitted with a baby capsule.

(3) Council may exempt a person or a class of people from the application of sub-clause (1).

(4) A person who makes an application to Council for exemption from sub-clause (1) must not make or cause to be made any false representation.

(5) A person who makes or causes to be made any false representation is guilty of an offence.

(6) A person who operates a supermarket or similar activity where shopping trolleys are made available for use or are permitted to be used must ensure that a shopping trolley is not left on any Road or other Public Place.

(7) A person must not leave, cause to be left or authorise another person to leave a shopping trolley on any Road or other Public Place.

(8) An Authorised Officer or a person engaged by Council may seize and impound any shopping trolley that is being made available for use, or which is being used, in contravention of this Local Law.

(9) As soon as practicable after the impoundment of any shopping trolley an Authorised Officer must, if the identity of the person who owns the shopping trolley can be identified, serve a notice of impoundment on that person.

(10) Any impounded shopping trolley must be returned to the owner of that shopping trolley after:

(a) payment of any fees, as determined from time to time by Council, have been paid in full; and

(b) evidence of ownership of the shopping trolley is provided to the satisfaction of the Authorised Officer.

(11) Any impounded shopping trolley not claimed by the owner within the time specified on the notice of impoundment or within 14 days of the impounding, where the owner of the trolley cannot be ascertained, may be disposed of by an Authorised Officer.

126. Footpath Trading Code

(1) The Footpath Trading Code is incorporated into this Local Law.

(2) A person must not, without a Permit, on Council Land:

(a) occupy;

(b) place any item or thing;

(c) construct or erect any structure or anything; or

(d) remove or interfere with any structure or thing.

(3) A person who contravenes or fails to comply with a requirement of the Footpath Trading Code imposed on them is guilty of an offence.

(4) A person who contravenes or fails to comply with a condition of a Permit is guilty of an offence.

127. Obstructions

(1) A person must not, without a Permit:

(a) place any item or thing or attach any structure, item or thing, on Council Land that creates an obstruction; or

(b) obstruct or restrict the use of any Road, footpath or Council Land by any means.

(2) A person must not, without a Permit, attach any structure, item or thing that overhangs, is on, or is above any Road or any other Council Land.

128. Repairing Vehicles

(1) A person must not on any Road or Council Land service, paint or dismantle any Motor Vehicle.

(2) A person must not on any Road or Council Land repair any Motor Vehicle, except where necessary to enable that Motor Vehicle to be removed.

129. Consumption of Liquor

(1) A person must not in a Public Place or within a Motor Vehicle that is in a Public Place, without a Permit:

(a) consume any Liquor; or

(b) have in their possession or control any Liquor other than Liquor in a sealed container.

(2) Sub-clause (1) does not apply in such places as may for the time being be:

(a) licensed premises within the meaning of the **Liquor Control Reform Act 1998**;

(b) an area in which the consumption of Liquor is permitted in accordance with a licence granted under the **Liquor Control Reform Act 1998** or this Local Law; or

(c) an area in which Council has issued a Permit for the consumption of Liquor.

(3) If an Authorised Officer believes on reasonable grounds that a person is contravening or has contravened sub-clause (1), the Authorised Officer may direct the person to seal any container or dispose of the contents of any unsealed container.

(4) A person who fails to obey a direction of an Authorised Officer under sub-clause (3) is guilty of an offence.

130. Mobile Cranes

A person must not, without a Permit, place, leave standing or use a crane, travel tower, boom, hydraulic arm, lift, tackle or any other machine on or over a Road or Council Land.

131. Hoarding, Scaffolding and Overhead Protective Awning

(1) A person must not, without a Permit, erect any hoarding, scaffolding, protective barrier or like structure on a Road, Public Place or Council Land.

(2) A person must not, without a Permit, erect any hoarding, scaffolding, fencing, temporary fencing or like structure on the boundary of private land on which building works is being, or is to be, carried out.

(3) A person must comply with any requirements imposed on that person in the Procedure and Protocol Manual.

(4) Council may prescribe any requirements in relation to the requirements of hoarding, scaffolding, protective barriers or like structures including the nature and form, coverings, materials, location and maintenance.

132. Bulk Rubbish and Storage Containers Left on Roads

A person must not, without a Permit, place, leave or permit to be left any:

(a) bulk rubbish container on a Road or Council Land;

(b) shipping or other storage container on a Road or Council Land; or

(c) thing that encroaches on or obstructs the free use of a Road or Council Land or that reduces the breadth or confines the limits of a Road or Council Land.

133. Clothing Bins

A person must not, without a Permit, place a clothing bin on Council Land or on a Road.

134. Unregistered and Abandoned Vehicles

(1) A person must not, on a Road, Public Place or parking area vested in or under the control of Council, place any unregistered Motor Vehicle or abandon or cause to be abandoned any Motor Vehicle.

(2) Council may impound any abandoned or unregistered Motor Vehicle found on any Road or in any Public Place or parking area vested in or under the control of Council in accordance with the provisions of the Act.

135. Parking Permits

(1) A person who lives in an area in which a residential parking permit scheme operates may make an application to Council for a residential parking permit.

(2) A person who has been allocated a residential parking permit must not sell, hire out, lease, license or lend to another person or offer to sell, hire out, lease, license or lend that residential parking permit to any other person.

(3) A person must not purchase, hire, lease, license or receive, or offer to purchase, hire, lease, license or receive a residential parking permit from a person who has been allocated a residential parking permit.

(4) The owner and occupier of land on which an advertisement is displayed for the sale, hire, offer for purchase or offer for hire of a parking permit is guilty of an offence.

(5) A person must not:

(a) forge or counterfeit a parking permit;

(b) use a forged or counterfeit parking permit; or

(c) contravene or fail to comply with the conditions of use of a residential parking permit.

136. Filming

A person must not, without a Permit, occupy or allow the occupation of any Road or Council Land for the purposes of filming for commercial purposes or public exhibition or for the placement of any equipment associated with such activity.

137. Toy Vehicles

(1) For the purpose of this clause a "wheeled recreational vehicle" means any mini bike, trail bike, motor bike, motor scooter, go-cart, Segway or other vehicle propelled by a motor that is normally used for recreational or transport purposes but does not include a motorised wheelchair or electric bicycle.

(2) A person must not, without a Permit, use, or permit a person to use, a wheeled recreation vehicle on Council Land or a footpath.

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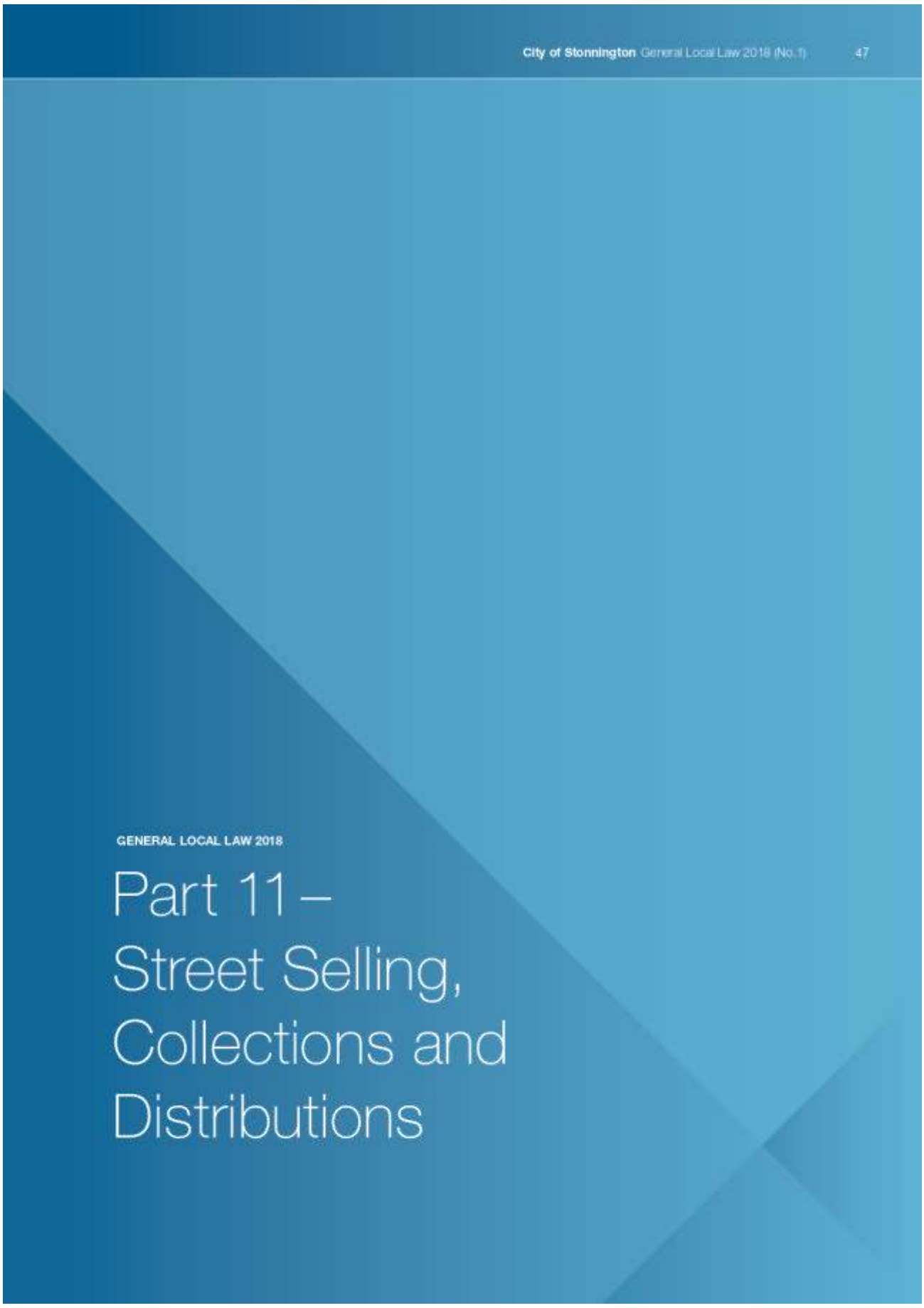

138. Itinerant Trading

(1) A person must not, without a Permit:

(a) erect or place on any Council Land or in any Public Place a Vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling any Goods;

(b) sell or attempt to sell any Goods from a property, Road, Council Land or Public Place adjacent to a Road, to any person who is on a property, Road, Council Land or Public Place;

(c) have any Good, object or thing on any Council Land or any Public Place for sale, hire, transport or use.

(2) Sub-clause (1) does not apply to:

(a) newspapers or magazines that are being home delivered; or

(b) the home delivery of Goods purchased at another location or online.

139. Street Appeals

(1) A person must not, without a Permit, in a Public Place, solicit or collect money, gifts or subscriptions for any purpose or cause or authorise another person to do so.

(2) Council may exempt any person, class of person or any particular collection activity from requiring a Permit.

140. Street Promotions

(1) A person must not, without a Permit, on any Road, Council Land or Public Place:

(a) hand out a document that advertises a political party, commercial event or venture, or is of a fundraising nature;

(b) deliver any public address with or without any sound amplification equipment;

(c) spruik, tout or solicit the sale of any Goods;

(d) conduct any concert, public assembly or public event; or

(e) participate in any promotional activity.

141. Processions, Street Festivals and Street Parties

(1) A person must not, without a Permit, hold, allow to be held or participate in or on a Road:

(a) a street party; or

(b) a street festival or procession.

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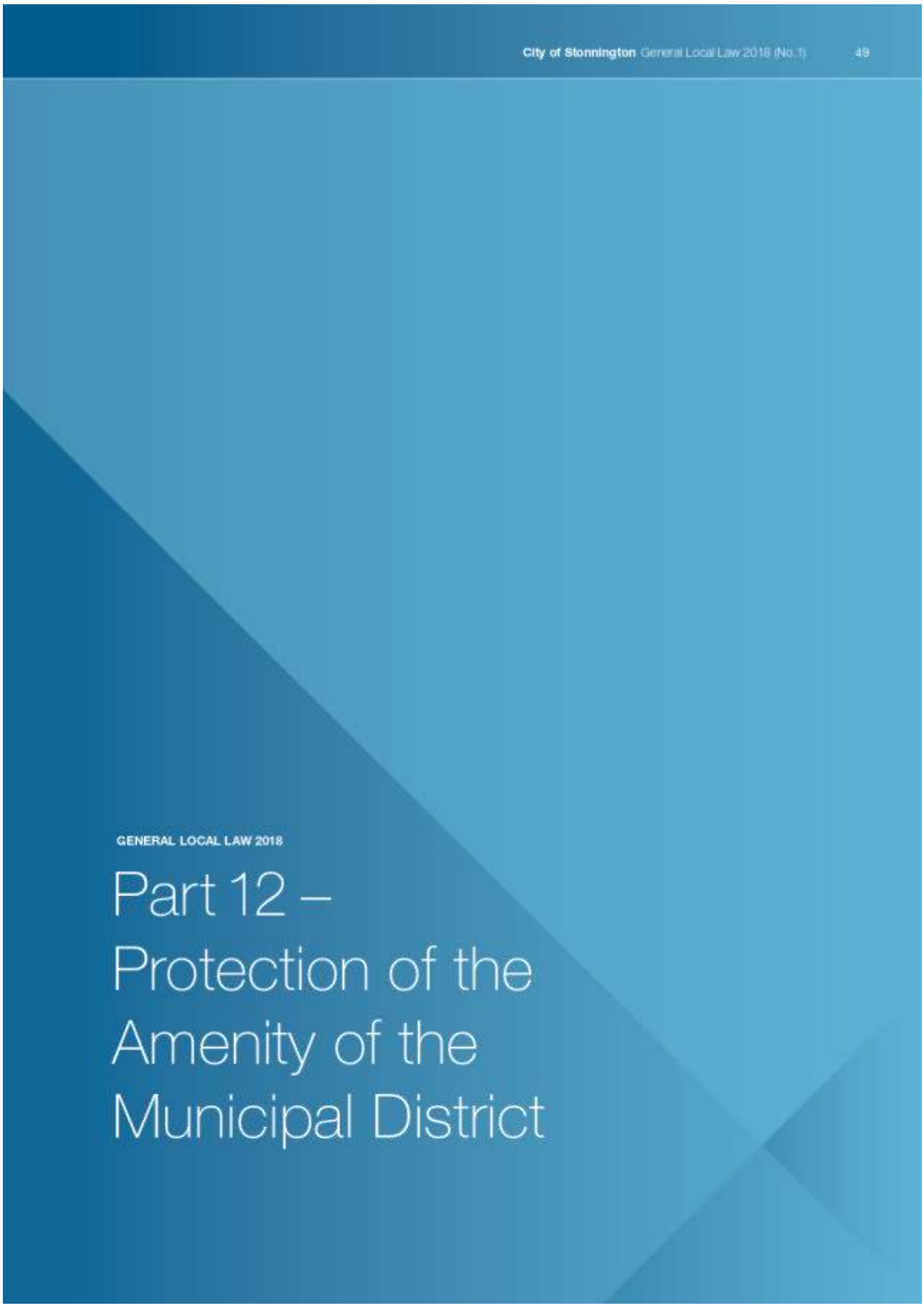

Division 1 – General

142. Property Numbers

(1) Council may from time to time allocate a number to an allotment and may from time to time allocate a different number to an allotment or otherwise change the numbering.

(2) The owner or occupier of an allotment to which a number has been allocated by Council must mark the allotment with the number in a form that is legible, visible and clear of vegetation and other obstructions and of a minimum size of 80 mm.

(3) The owner of occupier of an allotment must ensure that all numbers marking the allotment are:

(a) made of durable materials;

(b) kept in a good state of repair;

(c) renewed as often as may be necessary; and

(d) located or positioned in accordance with a direction by Council.

(4) A person must not display a number on an allotment unless the number has been allocated to the allotment by the Council.

143. Camping and Camping on Council Land or a Road

(1) A person must not have more than one (1) caravan on residential land.

(2) A person must not occupy or allow another person to occupy a caravan, tent or other thing on residential land for more than three (3) weeks in a calendar year.

(3) A person must not, without a Permit, camp on Council Land, a Public Place or on any Road in a tent, caravan, Motor Vehicle or other temporary or makeshift structure unless he or she is within a caravan park licensed under the **Residential Tenancies Act 1997**.

(4) A person must not leave any personal goods or effects on Council Land, Public Place or any Road as part of any camp.

144. Noise

(1) The owner, occupier or person in charge of land must not cause or allow noise to emanate from that land that detrimentally affects the amenity of the area.

(2) A person must not:

(a) on or adjacent to any Road; or

(b) in a Motor Vehicle or Vehicle on or adjacent to any Road,

allow noise to emanate that detrimentally affects the amenity of the area.

(3) An owner, occupier or person in charge of land or a Motor Vehicle must not:

(a) install or place (or allow that to occur) on that land or in a Motor Vehicle an audible alarm that when activated is audible outside the land or Motor Vehicle for more than 10 consecutive minutes; or

(b) allow an audible alarm installed on land or in a Motor Vehicle to be audible outside the land or Motor Vehicle for more than;

(i) 10 consecutive minutes; or

(ii) two (2) or more separate periods, each cumulatively amounting to 10 minutes or more within a period of one (1) hour.

(4) Sub-clause (3) does not apply where the noise is from a different audible alarm or a location that is different from the earlier occasions, or where the noise occurred after the audible alarm had been manually re-set and (in the case of an audible alarm on land) there is displayed on the land, in a prominent location near the front door, details of the name and telephone number of a person (not at the land) who can and will deactivate the audible alarm to prevent a breach of this Local Law.

(5) A person must not deliver to or pick up goods from land used for commercial purposes if noise from that activity is audible in a habitable room of any residential dwelling between:

(a) 10pm and 7am, Monday to Saturday; or

(b) 10pm and 9am, Sunday or a public holiday.

(6) The owner, occupier and person in charge of land used for a commercial purpose must not cause or allow amplified speech or music to be audible outside the land unless each speaker is:

(a) within the building on the land;

(b) not less than three (3) metres from any entrance to the building;

Table 2

Group	Items	Prohibited times
1.	A motor vehicle (except a vehicle moving in or out of premises), lawn mower or other grass-cutting device and any equipment or appliance not falling within Group 2 having an internal combustion engine	Monday to Friday: before 7am and after 8pm Weekends and public holidays: before 8am and after 8pm
2.	An electric power tool, chain or circular saw, gas or air compressor, pneumatic power tool, hammer and any other impacting tool, grinding equipment	Monday to Friday: before 7am and after 8pm Weekends and public holidays: before 9am and after 8pm
3.	A musical instrument and any electrical amplified sound reproducing equipment including a stereogram, radio, television and public address system	Monday to Thursday: before 7am and after 10pm Friday: before 7am and after 11pm Saturday and public holidays: before 9am and after 11pm Sunday: before 9am and after 10pm
4.	Any electric equipment or appliance not falling within Group 2 or Group 3, including electric gardening equipment	Monday to Friday: before 7am and after 8pm Weekends and public holidays: before 9am and after 8pm

(c) directed away from any wall (that is less than 15 metres from the device), external window or entrance to the building; and

(d) operating at a level that does not exceed 65 dB (LA max) two (2) metres from the façade of a building adjoining a Road.

(7) Without limiting the generality of sub-clause (1), any noise:

(a) emitted from land, other than residential land, from any item at any time that is specified as a prohibited time in respect of that item in Table 2; and

(b) that noise can be heard in a habitable room in any residential dwelling,

is deemed to be detrimental to the amenity of the area unless it is emitted in the case of an emergency.

145. Advertisements

(1) A person must not, without a Permit, write, paint, stencil, place or affix any letter, figure, Graffiti, device, poster, sign or advertisement upon any:

(a) Road;

(b) Council Land;

(c) Building, structure, fixture or any other thing on a Road or Council Land; or

(d) Motor Vehicle, Vehicle, instrument, machinery, device, tool or other item on a Road or Council Land.

(2) Any person who allows, authorises or engages another person to do anything in sub-clause (1) is guilty of an offence.

(3) A person must not, without a Permit, erect and display any real estate sign on or above a verandah, over a footpath or on the façade of a Building on the boundary of a footpath.

(4) An Authorised Officer may remove, or direct to be removed and disposed of, any letter, figure, Graffiti, device, poster, sign or advertisement in contravention of sub-clause (1) or (3).

146. Mobile Billboards

(1) A person must not, without a Permit, place a mobile billboard on:

(a) a Road, Road-related area or Council Land; or

(b) any other location likely to interfere with the vision of a pedestrian or driver.

(2) For the purposes of sub-clause (1) a mobile billboard is an advertising sign that is specifically constructed to be part of a Motor Vehicle or pulled along on a trailer by a Motor Vehicle.

(3) If a mobile billboard is placed in contravention of sub-clause (1) each of the following persons are guilty of an offence:

(a) the person who is responsible for the placement, siting or distribution of the advertising sign including, without limitation, the person who engages another whether as an employee or agent to place, site or distribute the advertising sign; and

(b) the person who is the promoter of the premises, property, business, event or activity to which the advertising sign relates.

147. Incinerators and Fires

(1) A person must not set alight or allow any Fire to remain alight on land or in the open air without a Permit.

(2) Sub-clause (1) does not apply if:

(a) that person is a person authorised by a Public Body engaged in fire protection measures for or on behalf of that Public Body; or

(b) the Fire is in a Barbecue.

(3) An owner, occupier or person in charge of land must not allow a Barbecue to discharge ash or smoke that is dangerous to health or offensive to any other person.

148. Chimneys

The owner and occupier of any land must not cause or knowingly allow or suffer smoke to be emitted from a Chimney that is a nuisance.

149. Directive Powers

(1) An Authorised Officer may direct a person to extinguish a Fire where the Authorised Officer believes on reasonable grounds that the Fire is causing a nuisance to another person or is contrary to this Local Law.

(2) Any person who does not comply with the direction of an Authorised Officer in sub-clause (1) or the direction of a member of Victoria Police or member of a fire brigade in relation to a Fire is guilty of an offence.

150. Unsightly Premises

(1) For the purpose of this section the word 'land' includes any nature strip.

(2) The owner and occupier of land must not cause or allow the land to be kept in a condition that is unsightly or detrimental to the amenity of the area.

(3) The owner and occupier of land must ensure that:

(a) all necessary steps are taken to prevent Fire on that land and minimise the possibility of the spread of Fire from that land; and

(b) the land is kept free of undergrowth, scrub bracken, ferns, weeds, stubble or grass (whether alive or dead exceeding 30 cm in height and whether standing or not standing) and any other material or substance likely to assist in the spread of Fire.

(4) Without affecting the operation of clause 11, where Council is of the opinion that any land contains:

(a) unconstrained rubbish;

(b) an excavation that is not part of current works;

(c) waste material; or

(d) any material or substance on premises that constitutes or is likely to constitute a Fire hazard,

the Council may serve a Notice to Comply on the owner and occupier of the land for the cleaning up, screening, removal or disposal of any material or substance on that land.

151. Fencing of Vacant Land

(1) If Council is of the opinion that vacant land is unsightly or waste is being dumped on the land or the land is dangerous, it may, by notice in writing, direct the owner or occupier of any vacant land to erect, repair, replace or modify fencing enclosing the vacant land.

(2) A notice under this clause may specify:

(a) the material with which any fencing to be erected must be constructed;

(b) the material to be applied to the fencing to restrict the view into the vacant land; and

(c) the height and other dimensions of the fencing to be erected.

(3) The owner or occupier of any land must comply with a notice directed to that person under clause 11 and must perform any work specified in the notice within the time specified in the notice.

152. Securing and Fencing Dilapidated Land

(1) Council may, by notice in writing, direct the owner or occupier of land on which any dilapidated dwelling exists to:

(a) secure or better secure the dwelling; or

(b) fence the land.

(2) The owner or occupier of any land must comply with a notice directed to that person under clause 11 and must perform any work specified in the notice within the time specified in the notice.

153. Vermin and Noxious Weeds

The owner and occupier of land must ensure that the land and nature strip adjacent to that land do not contain blackberries or a weed that is a noxious weed within the meaning defined in the **Catchment and Land Protection Act 1994**.

154. Dangerous Land

The owner and occupier of land must not allow the land to be kept in a manner that is dangerous or likely to cause danger to life or property.

155. Motor Vehicles and Machinery

(1) Unless in accordance with the Planning Scheme or a Permit, a person must not use land for:

(a) the storage of old or second-hand Motor Vehicles, motor boats, machinery, goods or materials; or

(b) dismantling or breaking up of Motor Vehicles, motor boats, machinery, goods or materials.

(2) Unless in accordance with a Permit or the Planning Scheme, a person must not use land for the repairing or servicing of any Motor Vehicle (except one that is registered under the **Road Safety Act 1986** to that address) or motor boat.

(3) A person must not in the process of repairing or servicing a Motor Vehicle or motor boat perform any act in a manner that disturbs the peace and quiet of any person in an adjoining dwelling.

156. Overhanging and Encroaching Trees

(1) The owner and occupier of land must not allow any tree, hedge, plant or vegetation of any kind growing on that land to:

(a) overhang any Road at a height less than two and a half (2.5) metres;

(b) grow in such a manner so that it obstructs the view of a Motor Vehicle, sign or signal on a Road by any person using that Road; or

(c) obstruct a footpath.

157. Dilapidated Buildings

(1) The owner and occupier of land on which there is a Building must not allow or permit the Building to be dilapidated.

(2) Where a Building is dilapidated, Council may serve a Notice to Comply on the owner and occupier of the land specifying the works required to correct the dilapidated state, or that the Building be removed or demolished.

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158. Building Definitions

In this Part:

"Building Activity" includes:

(a) any act or thing done or to be done on, over or across any Road or Council Land for the purpose of or in the course of constructing, repairing, demolishing, pulling down or removing any building;

(b) the erection or removal of any kind of scaffolding and the excavation and carrying away of earth, soil, clay, rock or material of any kind on, over or across any Road or Council Land;

(c) the moving about of any building equipment or material and any rubble, waste or second-hand building materials on, over or across any Road or Council Land; or

(d) any work or action incidental to the matters referred to in paragraph (a), (b) and (c) conducted on, over or across any Road or Council Land.

"Building Activity Hours" means the period of time between 7am and 8pm on any week day or the period of time between 9am and 8pm on Saturday.

"Repair" includes the re-construction or renewal of any part of an existing building for the purpose of its maintenance.

159. Building Activity Hours

(1) A person must not, without a Permit, carry out any Building Activity on land or use any machinery or device ancillary to Building Activity on or over or across a Road or Council Land:

(a) on Christmas Day, Easter Sunday, Good Friday, ANZAC Day;

(b) a Sunday; or

(c) on any other day outside of Building Activity Hours.

(2) Sub-clause (1)(b) does not apply to a natural person who is an owner of land on which Building Activity is being carried out on that land.

160. Dust Control

(1) A person carrying out any Building Activity, landscaping or gardening works on land must ensure that dust or spoil is not deposited on any Road.

(2) A person carrying out any Building Activity, landscaping or gardening works on land must ensure that dust, spoil or other material does not escape from the land to be a nuisance.

(3) A person carrying out any Building Activity, landscaping or gardening works on land must ensure that any rubbish, waste, water, slime or other debris does not escape from the land.

(4) A person instructed by an Authorised Officer to rectify, clean up or remedy the dust or spoil referred to in sub-clauses (1) to (3) must immediately rectify the situation to the satisfaction of the Authorised Officer.

161. Spoil from Building Sites

(1) An owner or occupier of land or a building contractor responsible for Building Activity on that land must not allow a Motor Vehicle to leave the land on which building works are being carried out and enter an adjoining Road unless the wheels and tyres of that Motor Vehicle are clean and free from soil, earth, clay or other debris.

(2) An owner or occupier and building contractor responsible for Building Activity on that land who allows by consent, neglect, omission or direction the matters in sub-clause (1) to occur is guilty of an offence.

162. Building Material

A person must not, without a Permit, place any building material, rubble, plant, equipment or portable toilet on any Road or Council Land.

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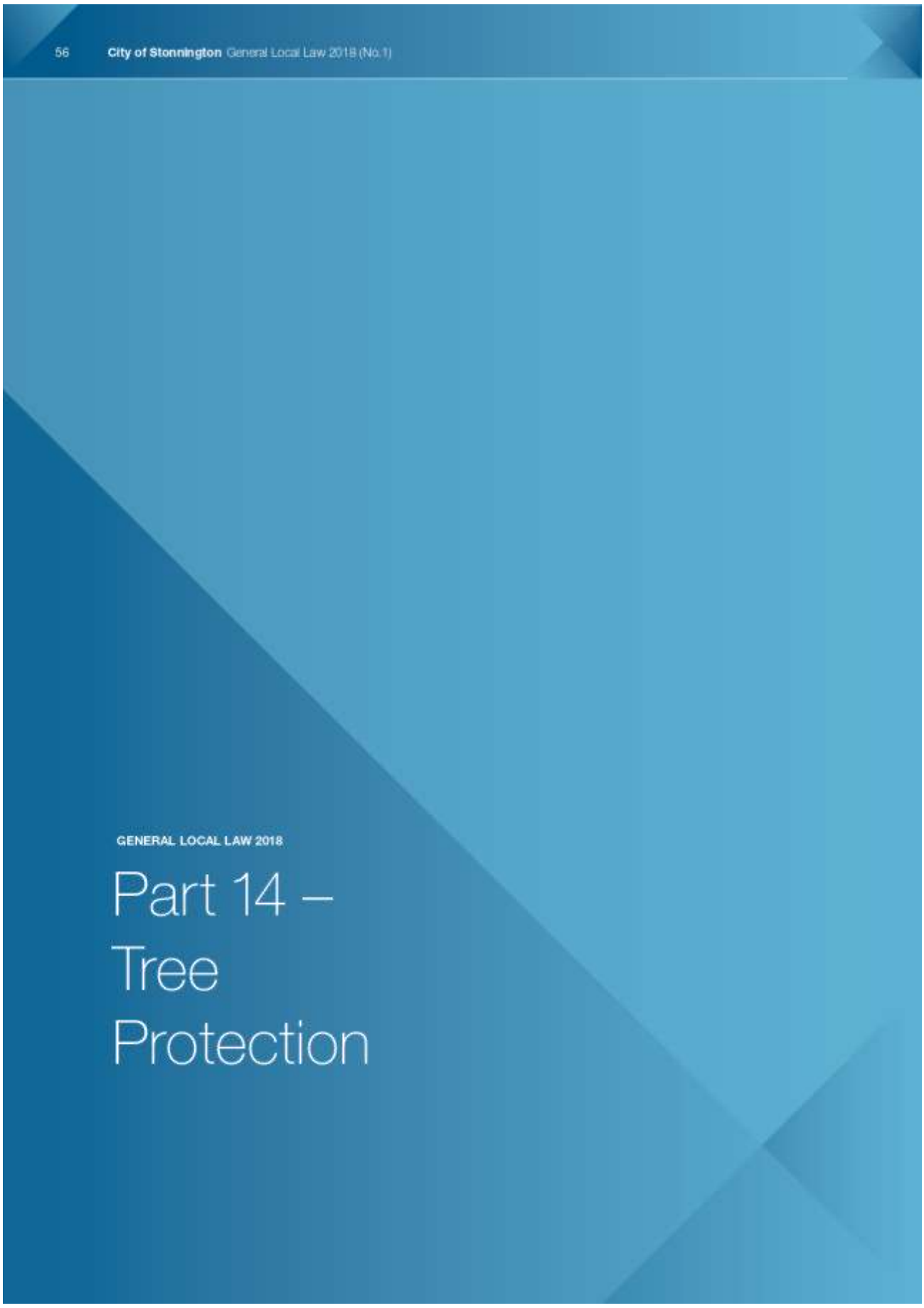

163. Tree Protection

(1) In this Part:

"Damage" means to lop, prune or undertake Works near a tree such that the tree is no longer viable in terms of health, structure or stability.

"Prune" means to remove any branches of a tree that are greater than 50 mm in diameter at the point of contact with the larger branches or the trunk.

"Significant Tree" means a tree or palm:

(a) with a trunk circumference of 140 cm or greater measured at 1.4 m above its base;

(b) with a total circumference of all its trunks of 140 cm or greater measured at 1.4 m above its base;

(c) with a trunk circumference of 180 cm or greater measured at its base; or

(d) with a total circumference of all its trunks of 180 cm or greater measured at its base.

Note: See Figure 1 and 2.

"Tree Protection Zone" means the area surrounding a tree's trunk that contains the roots that are essential to the tree's continued health, vigour and stability, being a circular area below the tree extending at equal distances from the tree base in all directions, the radius of which is 12 times the trunk diameter measured at 1.4 m above its base.

Note: See Figure 3.

"Works" includes building, trenching, digging, compacting, excavating, filling or storing materials and equipment whether by mechanical or manual methods.

(2) Unless in accordance with a Permit a person must not:

(a) remove, kill or Damage a Significant Tree; (these actions result in the killing or the necessary removal of the tree and therefore are the most serious offending)

(b) lop, prune or trim a Significant Tree; (the lopping or pruning of a tree that does not result in the loss of the tree)

(c) carry out any Works within the Tree Protection Zone of a Significant Tree; or (the carrying out of Works may or may not result in the death of the tree)

(d) direct, authorise or allow a person to do any of (a), (b) or (c) above.

Note: See Figure 3.

(3) Sub-clause (1) does not apply to:

(a) a person whose actions are authorised under a Planning Permit under the Planning Scheme;

(b) a person whose actions are required by any other legislation or by any other statutory authority; or

(c) a person acting in accordance with an instruction or direction from an Authorised Officer.

(4) If a tree is interfered with in any of the circumstances specified in breach of sub-clause (2) (having regard to sub-clause (3), the owner of land on which the tree is located is guilty of an offence, whether or not the person who actually contravened sub-clause (2) is identified or prosecuted, unless the owner can prove that the interference was undertaken by another person without the knowledge of the owner.

(5) A person must not, without a Permit, remove, kill, Damage, lop, Prune or trim a Significant Tree that is overhanging property owned or occupied by that person.

(6) In deciding whether to grant a Permit under this clause Council must take into consideration the matters specified in the Procedure and Protocol Manual.

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Figure 1: Diagram illustrating how to measure a circumference of the base of different shaped trees.

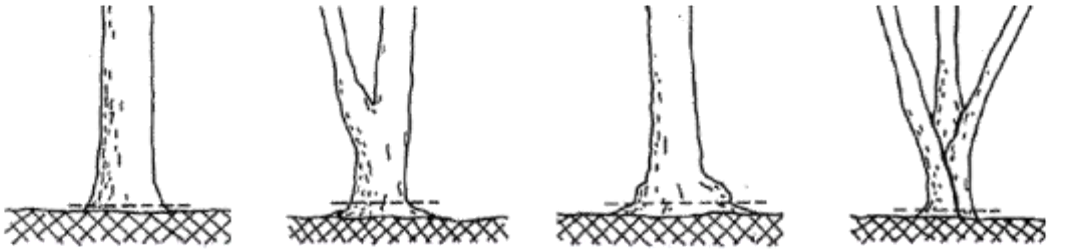


Figure 2: Diagram illustrating where and how to measure the circumference at 1.4m above ground level.

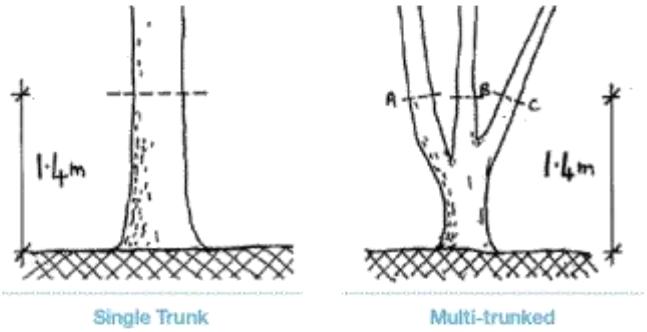
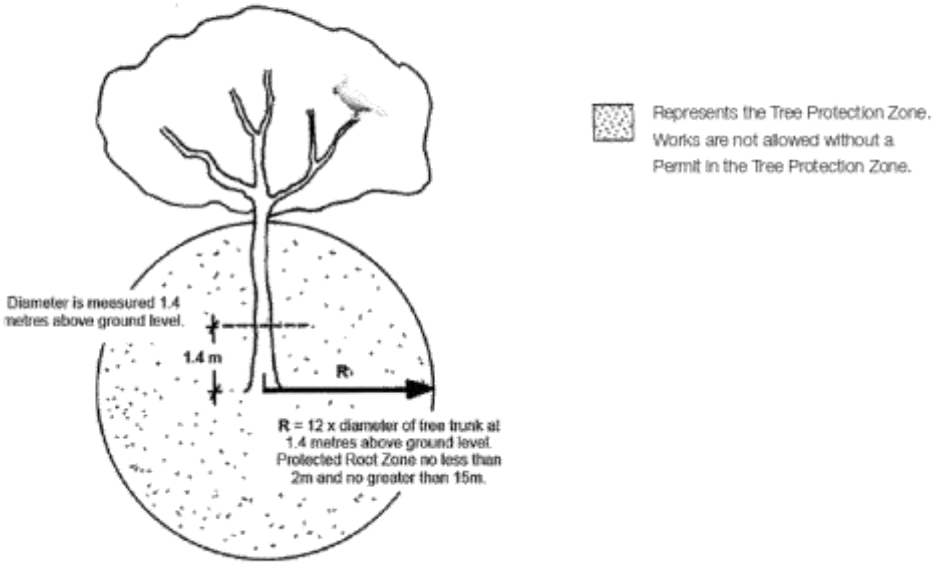


*Figure 3: Diagram illustrating how to determine the **Tree Protection Zone**.*



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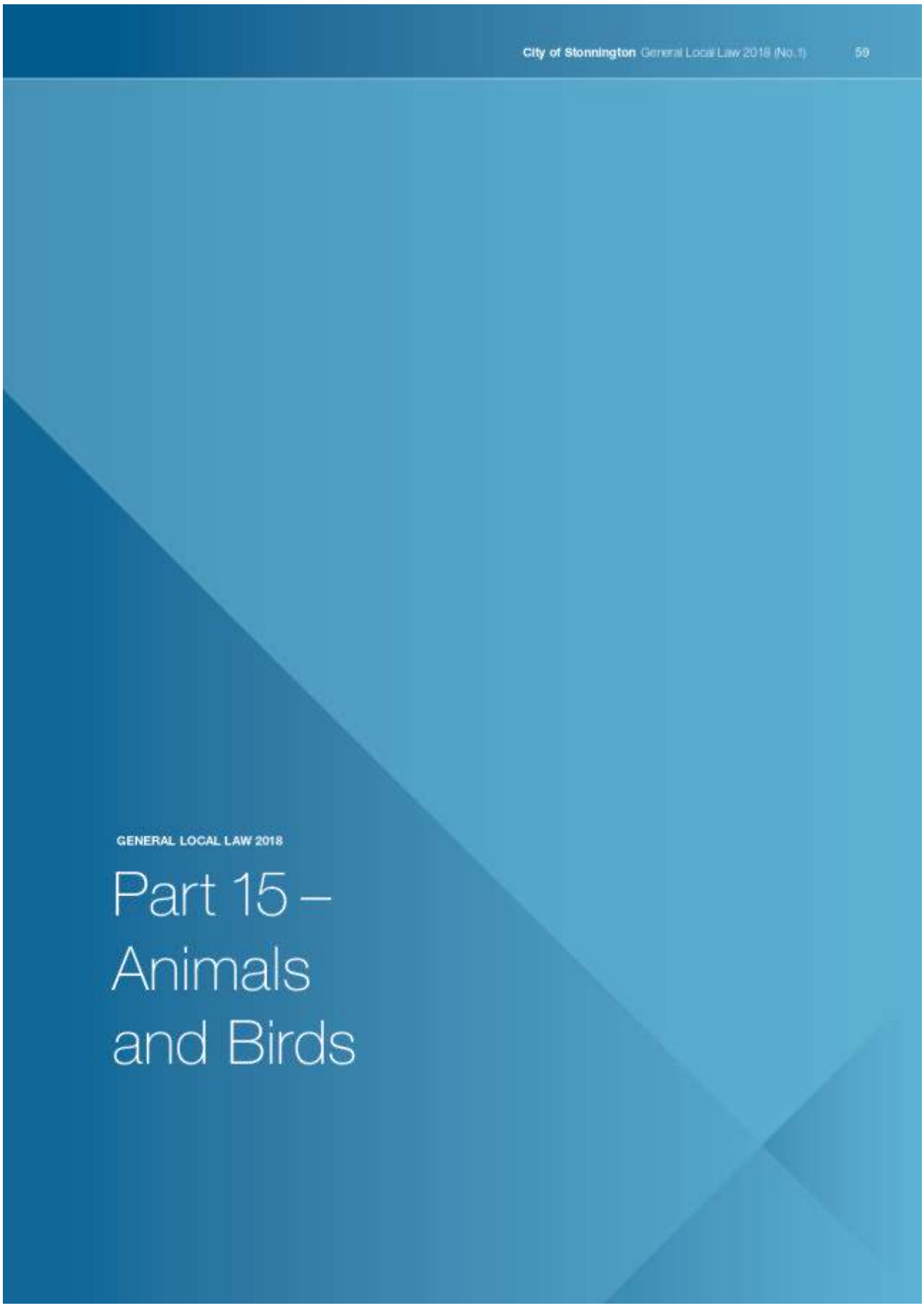

164. Application of Part

This Part does not apply to land:

(a) on which a pet shop is located; or

(b) on which an animal hospital or veterinary practice is located,

if the use of the land for this purpose is permitted under the Planning Scheme applicable to that land.

165. Conditions Under Which Animals May be Kept

(1) The owner and occupier of land must not, without a Permit, keep or allow to be kept on that land at any time no more in number for each type of Animal than is set out in Table 3.

(2) Sub-clause (1) does not apply where a Planning Permit has been obtained for the use of land for the purposes of Animal boarding or breeding.

(3) A Permit may be granted for the keeping of any Animals not listed in Table 3 of sub-clause (1):

(a) if the Animals are to be part of a display for education, cultural or historical purposes; or

(b) if the Animal is not prohibited and in accordance with the requirements and criteria in the **Keeping of Animals Policy**.

166. Keeping of Animals Policy

(1) The Keeping of Animals Policy is incorporated into this Local Law.

(2) A person who contravenes or fails to comply with a requirement for the keeping of Animals in the **Keeping of Animals Policy** imposed on that person is guilty of an offence.

(3) The owner and occupier of land must not keep or allow to be kept on that land at any time an Animal specified in the **Keeping of Animals Policy**.

(4) A person who fails to comply with a condition of a Permit is guilty of an offence.

167. Animal Noises

(1) The owner and occupier of land where any Animal is kept must ensure that the keeping of the Animal does not create a nuisance.

(2) An Animal creates a nuisance for the purpose of sub-clause (1) if it creates a noise by any means and unreasonably interferes with the peace, comfort or convenience of any person.

Table 3

	Houses	**Units, townhouses, flats and apartments**
Cats Cats under 3 months	2 12	2 2
Dogs Dogs under 3 months	2 12	1 1
Domestic birds (budgie/canary or similar)	5	2
Domestic mice	6	3
Rabbits or guinea pigs	10	2
Cold water and tropical fish	unlimited	unlimited

168. Animal Excrement

(1) A person in charge of any Animal in a Public Place must immediately remove that Animal's excrement and dispose of it as litter in a lawful manner.

(2) A person in charge of any Animal in a Public Place must carry a Litter Device suitable to clean up and remove any excrement left by his or her Animal and must produce that Litter Device upon request of an Authorised Officer.

(3) A person who fails to produce a Litter Device when requested to do so is guilty of an offence.

169. Wasp Nest(s) and Bee Swarm(s) to be Removed

The owner and occupier of land must, upon becoming aware of the existence of a wasp nest or bee swarm on the land or at the direction of an Authorised Officer:

(a) take steps to cause the wasp nest or bee swarm to be removed; and

(b) arrange for the removal to be undertaken by an appropriate contractor.

170. Pest Animals

(1) A person must not keep, store or allow to be kept or stored on land any prepared food for consumption by an Animal unless the food is stored in a manner secure from all vermin, feral and stray Animals.

(2) A person must not, without a Permit, feed or encourage the presence of feral Animals, stray Animals or foxes nor allow any such Animals access to prepared food stored or issued to Animals.

171. Fencing of Dogs

The owner and occupier of land on which a dog is kept must ensure that all boundary fencing is adequate to keep the dog wholly within the boundaries of the land.

172. Feeding of Animals and Birds

(1) A person must not feed or leave food for an Animal or bird in a Public Place.

(2) Nothing in sub-clause (1) applies to any person feeding or leaving food for an Animal that is registered under the **Domestic Animals Act 1994** and under the effective control of that person.

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173. Supply and Use of Waste Receptacles

(1) The owner and occupier of land must:

(a) ensure that an appropriate receptacle for the collection of waste is available on the land for the collection and containment of waste;

(b) deposit or cause to be deposited in an appropriate receptacle only waste generated from the land;

(c) maintain all waste receptacles and any area of the land in which waste receptacles are located in a clean and sanitary condition; and

(d) not deposit commercial or residential waste in Council street bins.

(2) The owner or owners corporation of commercial and residential land on which there is more than one premises or dwelling must:

(a) construct on the land an area for storing waste receptacles;

(b) ensure that the area constructed is screened from view and maintained in a clean and sanitary condition; and

(c) ensure that the area is used to store waste receptacles.

(3) A person must not remove an Approved Receptacle from the land to which it has been assigned.

(4) A person must not damage or destroy an Approved Receptacle.

174. Domestic and Recycling Waste Collection

(1) The owner and occupier of land to which Council provides a domestic waste collection service or a domestic recycling collection service must only use an Approved Receptacle.

(2) The owner and occupier of land to which Council provides a domestic waste collection service or a domestic recycling collection service must:

(a) ensure the Approved Receptacle and contents does not exceed 60 kg;

(b) not place in an Approved Receptacle commercial or industrial waste or use an Approved Receptacle for any other purpose other than for the collection and containment of domestic waste or domestic recycling;

(c) place an Approved Receptacle for collection at the front of the land adjacent to the kerb;

(d) ensure that the lid is secure and that waste cannot spill onto the ground;

(e) ensure that if waste has spilled onto the ground that the waste is collected and deposited back into the Approved Receptacle;

(f) ensure that the Approved Receptacle is returned to the land on the day of collection; and

(g) comply with the additional requirements specified in the **Procedures and Protocol Manual**.

(3) If Council has given notice of a collection of Hard Waste, the owner or occupier of land may place or allow to be placed at the front of the land in a neat, tidy, safe and orderly manner Hard Waste for collection by Council.

(4) Hard Waste placed out for collection becomes the property of Council or such person as Council may specify.

(5) A person must not deposit or allow to be deposited any Hard Waste contrary to the notice given pursuant to sub-clause (3).

(6) A person must not interfere with or remove any Hard Waste unless:

(a) it is a person who has a Permit to do so;

(b) it is Council;

(c) the person is authorised by Council; or

(d) it is the person who deposited the Hard Waste.

175. Trade Waste Bins and Hoppers

(1) The owner and occupier of land on which a waste receptacle used for the collection and storage of commercial or industrial waste must:

(a) construct on the land an area to store the waste receptacle that is supplied with reticulated water so that the waste receptacle can be adequately cleaned;

(b) ensure that the area constructed is screened from view, maintained in a clean and sanitary condition and fenced in such a manner to deny access to the public;

(c) ensure the waste receptacle is available for collection on the day of collection and returned to the land after collection;

(d) ensure when the waste receptacle is on a Road or Council Land for collection:

(i) the lid is closed and waste is not able to spill onto the ground;

(ii) the waste receptacle is not in an unclean and offensive condition; and

(iii) any waste that has spilled onto the ground that the waste is collected and deposited back into the waste receptacle; and

(e) comply with the additional requirements specified in the Procedures and Protocol Manual.

(2) A person collecting and removing any commercial or industrial waste must not:

(a) collect and remove the waste other than between the hours of 7am and 10pm on Monday to Saturday (inclusive) and between the hours of 9am and 10pm (inclusive) on Sunday and a public holiday; and

(b) use a vehicle from which liquid waste water is able to leak onto the Road.

(3) For the purpose of sub-clause (2) above, the person collecting and removing commercial or industrial waste in contravention of sub-clause (2) includes the driver of the vehicle and the employer of the driver of the vehicle.

176. Council Waste Acceptance Facilities

(1) A person must not, without a Permit, deposit any waste in or at, or enter any Council Waste Depot unless:

(a) the fee, if any, has been paid;

(b) the waste is deposited where directed by Council notice, an Authorised Officer or a member of Council staff acting in the course of that member's duties;

(c) the waste is waste approved by Council for deposit; and

(d) during the hours the Council Waste Depot is open to the public.

(2) A person must not, without a Permit, remove from a Council Waste Depot any waste or material of any kind that has been deposited or left there.

(3) A person must, while in any Council Waste Depot, obey:

(a) a lawful order or direction of any Authorised Officer or member of Council staff acting in the course of that member's duties; and

(b) any sign authorised by Council.

177. Directive Powers

(1) An Authorised Officer may direct and require a person who deposits waste or places a waste receptacle or allows it to remain in place contrary to:

(a) this Local Law; or

(b) a Permit,

to immediately remove the waste or waste receptacle (as the case may be).

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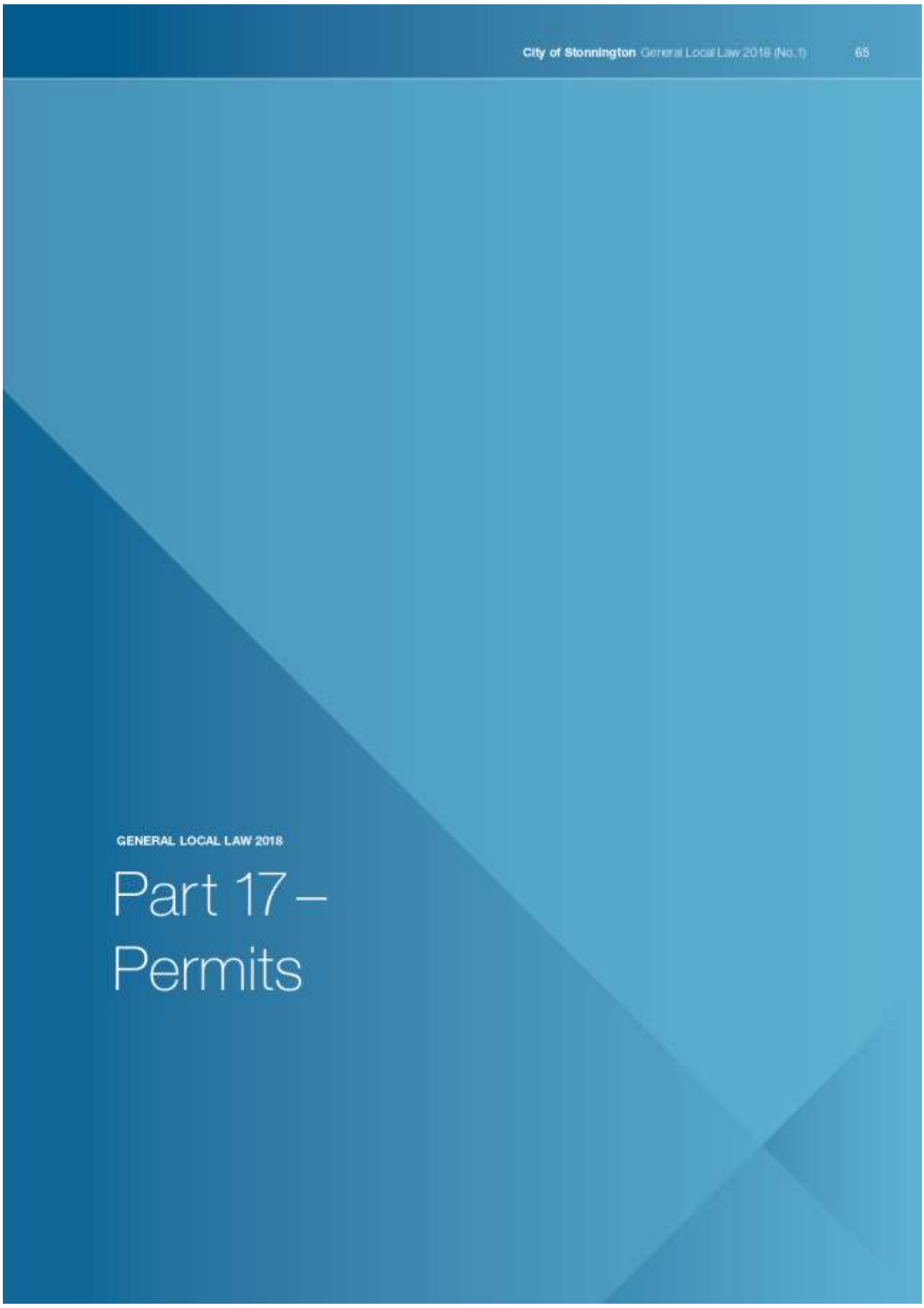

178. Application for a Permit

(1) An application for a Permit must be in the form prescribed by Council from time to time and must be accompanied by the appropriate fee, as determined by Council from time to time.

(2) Council may prescribe the form for an application for a Permit and specify the requirements for an application for a Permit and the matters to be considered or to be applied in the grant of a Permit in the **Procedure and Protocol Manual**.

(3) Council may require a person making an application for a Permit to give public notice that will entitle any person to make a submission and to be heard.

(4) Council may require additional information to enable an application for a Permit to be properly considered and for the purposes of administering and enforcing the provisions of this Local Law.

(5) Council may grant a Permit with or without conditions or refuse to grant a Permit.

179. Consideration of Applications

(1) In considering an application for a Permit, Council must consider as appropriate:

(a) any policy or guideline relating to the subject matter of the application for the Permit;

(b) any written objection or written submission received in respect of the application;

(c) any written comment made in respect of the application by any Public Body or community organisation;

(d) any matters specified in the **Procedure and Protocol Manual**; and

(e) any other relevant matter.

(2) Where the applicant is not the owner of the land that is the subject of the application, the consent of the owner of the land to the application must be provided to Council with the application.

180. Permits May be Conditional

(1) A Permit may be issued with or without conditions including, but not limited to, conditions relating to:

(a) the payment of a fee, charge, fare or rent;

(b) a standard to be applied;

(c) a time limit to be applied either specifying the duration, commencement or completion time or date;

(d) the issue of the permit subject to the happening of an event;

(e) the rectification, remedying or restoration of a situation or circumstance;

(f) a condition that a specified thing is to be done or not to be done to the satisfaction of Council or an Authorised Officer;

(g) the amendment or cancellation of a specified Permit prior the Permit coming into effect;

(h) a Permit for a use for a specified time:

(i) that any use or development carried out on the land under the Permit is to cease or be removed (as the case may be) at the end of the specified time; and

(ii) that the land is to be restored to a specified state at the end of the specified time;

(i) the consent of the owner of land where the applicant is not the owner of that land;

(j) the granting of some other Permit that may be required by Council whether under this Local Law or otherwise; and

(k) any other matter as considered appropriate.

(2) Council may by resolution determine a fee, charge, fare or rent in relation to any property, undertaking, goods, service or other act, matter or thing for the application, consideration, grant, renewal, suspension or cancellation of a Permit.

(3) Council may prescribe, regulate or determine the manner in which an application may be made for a Permit and the conditions on which a Permit may be granted, any service performed or supplied or the supply of any goods or information.

181. Power to Amend Conditions

(1) Council may, during the currency of a Permit, amend the conditions of a Permit if it considers it appropriate to do so.

(2) In considering whether it is appropriate to amend the conditions on the Permit, Council must have regard to:

(a) the purposes for which the conditions were imposed;

(b) whether those purposes are adequately achieved by the current conditions;

(c) the impact of the proposed amendment on the Permit holder and any relevant third parties; and

(d) any other relevant matter.

If Council proposes to amend the conditions on a Permit, it must:

(a) provide the permit holder an opportunity to make submissions on whether the amendment should be made; and

(b) take into account those submissions in deciding whether to amend the permit.

182. Security Bonds

(1) In deciding to grant a Permit, Council may require the applicant to lodge with Council a security bond, bank guarantee or similar surety in an amount and in a manner as Council considers reasonable in the circumstances.

(2) Council may use a security bond, bank guarantee or other surety to remedy a breach of that Permit, Local Law or repair any damage caused by any works under a Permit.

(3) Upon the completion of any required remediation works, Council must release any remaining security bond, bank guarantee or other surety.

183. Register of Permits

Council must keep a register of Permits.

184. Duration of Permits

Except where expressly stated in the Permit, the Permit operates from the date it is issued and expires one year after the date of issue or earlier if expressly provided in the Permit or if determined by Council.

185. Correction of Permits

(1) Council may correct a Permit issued if that Permit contains:

(a) a clerical mistake or an error arising from any accident, slip or omission; or

(b) a material miscalculation of figures or a material mistake in the description of any person, thing or property referred to in the Permit.

(2) Council must note the correction in the register of Permits.

186. Cancellation, Suspension or Amendment of Permits

(1) Council may cancel, suspend or amend any Permit at any time if:

(a) it is requested to do so by the Permit holder; or

(b) Council considers that there has been:

(i) a material mis-statement or concealment of fact in relation to the application for the Permit;

(ii) any material mistake in relation to the issue of the Permit; or

(iii) any material change of circumstances that has occurred since the granting of the Permit;

(c) Council believes that the continuance of the activity permitted by the Permit may result in a hazard, danger or inconvenience to any other person or property or be otherwise detrimental to the amenity of the area;

(d) Council is satisfied that there has been a substantial failure to comply with a Permit condition or Notice to Comply relating to the Permit; or

(e) the Permit holder defaults in any payment of a fee, charge, security bond, bank guarantee or similar surety required by the Permit.

(2) Council must note any cancellation, suspension or amendment of a Permit in the register of Permits.

(3) Prior to cancelling, suspending or amending a Permit, Council must:

(a) provide the Permit holder an opportunity to make a submission on whether the Permit should be cancelled, suspended or amended; and

(b) take into account the submission in deciding whether to amend the Permit.

187. Transferability of Permits

Unless otherwise stated in the Permit, a Permit is:

(a) personal and authorises only the person named in the Permit to carry out the activity authorised; and

(b) not transferable without the consent of Council.

188. Permit Issue and Refusal

(1) Wherever in this Local Law power is given to Council to issue, refuse to issue, suspend or cancel a Permit, such power may be exercised by an Authorised Officer.

(2) The power conferred in sub-clause (1) does not apply where:

(a) a written objection is received to the issuing of a Permit, in which case the application and objections must be referred to an Authorised Officer nominated by the Chief Executive Officer, General Manager or Council for consideration and determination; or

(b) where Council has issued or refused a Permit.

189. Exemptions

(1) Council may exempt any person or class of persons from the requirement to obtain a Permit, either generally or at specified times.

(2) Any person or class of persons specified in the **Procedure and Protocols Manual** may be exempt from the requirement to obtain a Permit.

190. Information

(1) A person must not obtain or attempt to obtain a Permit by knowingly making or causing to be made any false representation whether orally or in writing.

(2) Any person must, when requested to do so, produce a Permit to:

(a) an Authorised Officer; and

(b) a member of Victoria Police or a member of the fire brigade.

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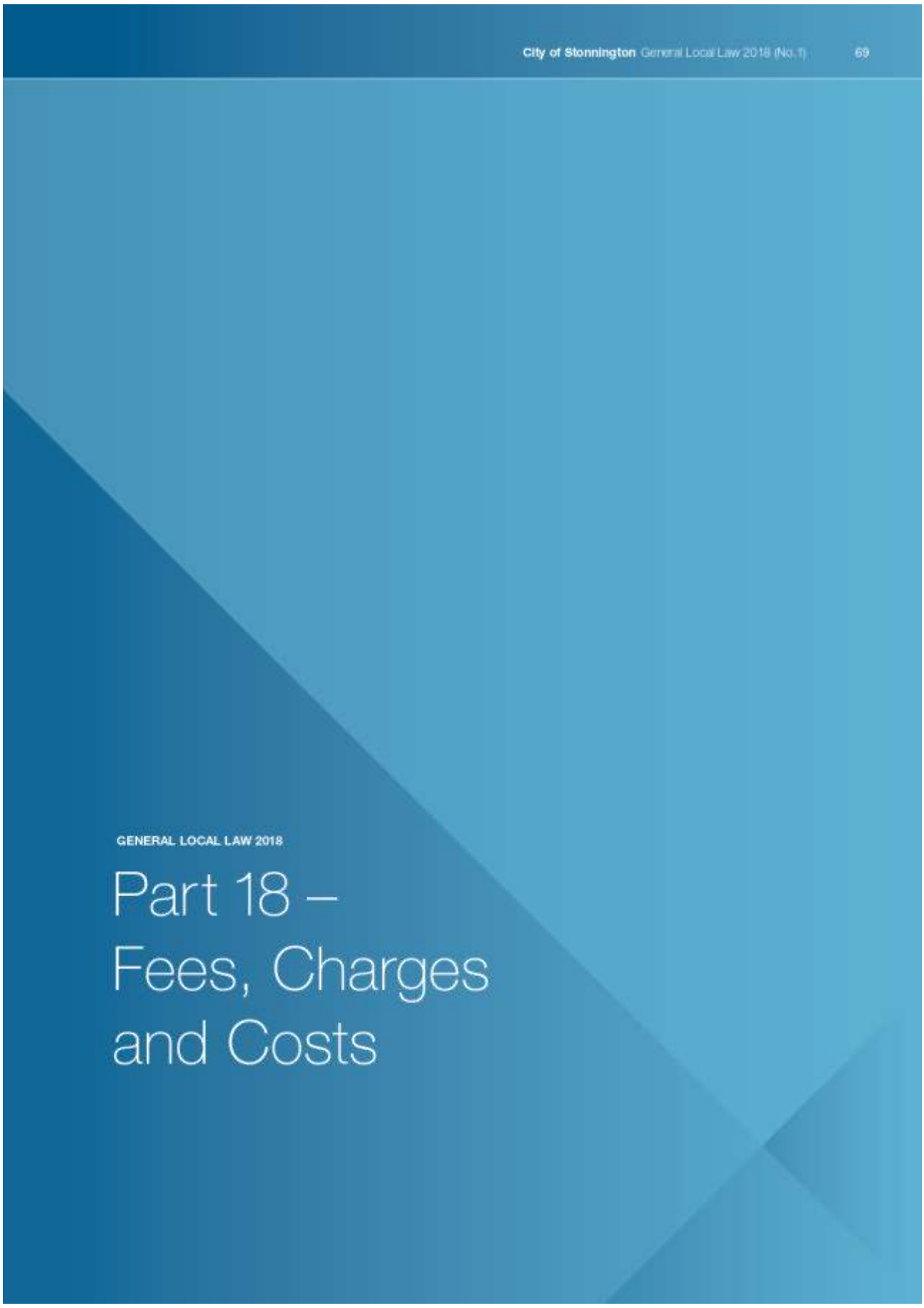

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191. Setting Fees and Charges

Council may, from time to time and by resolution determine a fee, charge, fare or rent in relation to any property, undertaking, goods, service or other act, matter or thing or the application, consideration, grant, renewal, suspension or cancellation of a Permit.

192. Differential or Structured Fees and Charges

In determining any fee, charge, fare or rent, Council may establish a system or structure of fees, charges, fares or rents including a minimum or maximum, specific fees, scales of fees according to the value of goods or services provided or project being assessed, if it considers it is appropriate to do so.

193. Waiver or Alteration to Fees and Charges

The Council may waive, reduce, alter or refund in whole or in part any fee, charge, fare or rent with or without conditions.

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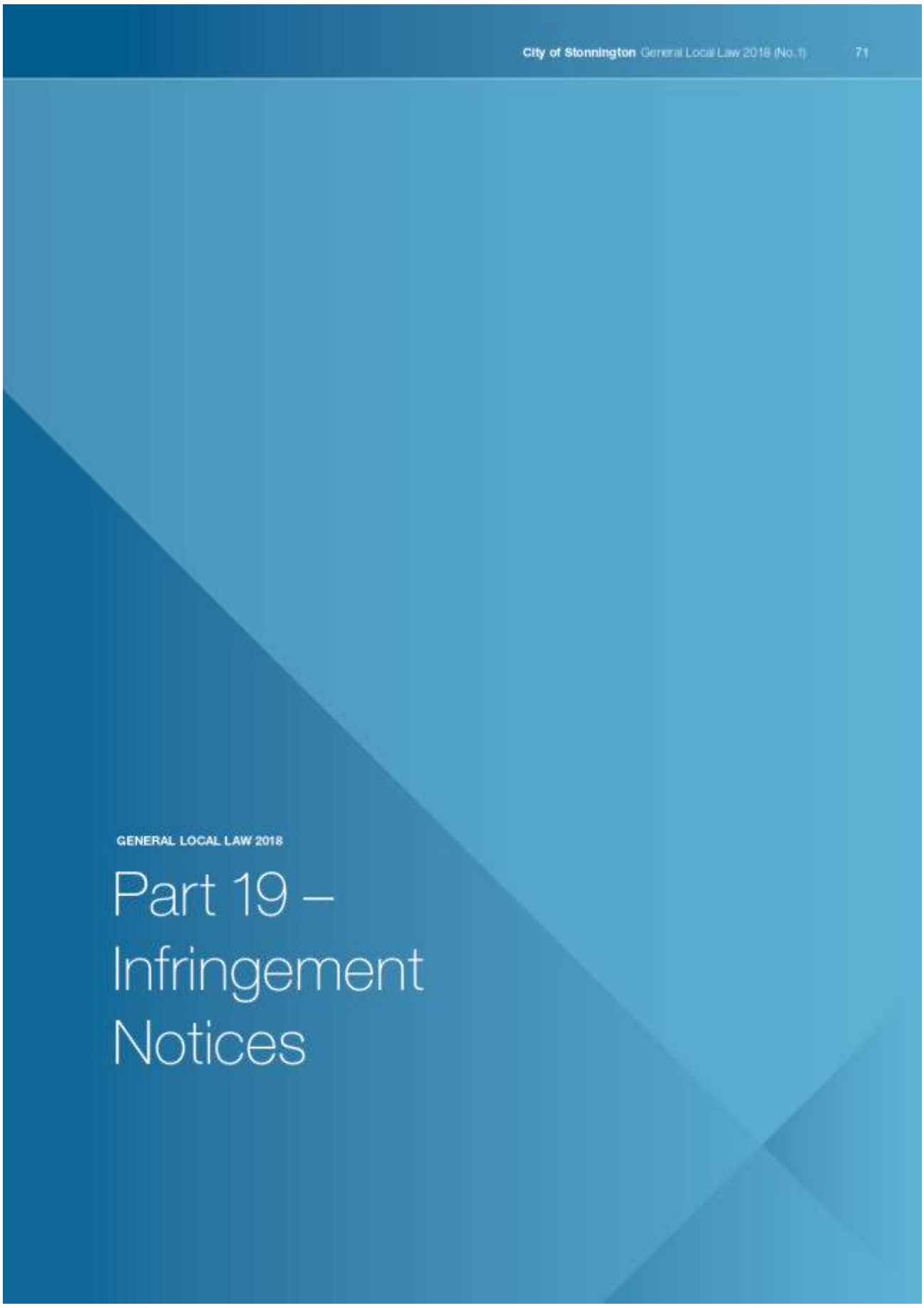

Attachment 10 - Stonnington - General-local-law-2018

194. Purpose

The purpose of this Part is to provide for the issue of infringement notices for contraventions of this Local Law.

195. Infringement Notice

(1) An Authorised Officer may serve, or cause to be served, an infringement notice to a person who the Authorised Officer reasonably believes has contravened or failed to comply with this Local Law.

(2) An infringement notice may only be served to a person for a contravention of this Local Law if the offence is listed in the schedule to the **Procedure and Protocol Manual**.

(3) The infringement notice must specify the penalty (shown as Penalty Units) specified for that offence in the schedule to the Procedure and Protocol Manual.

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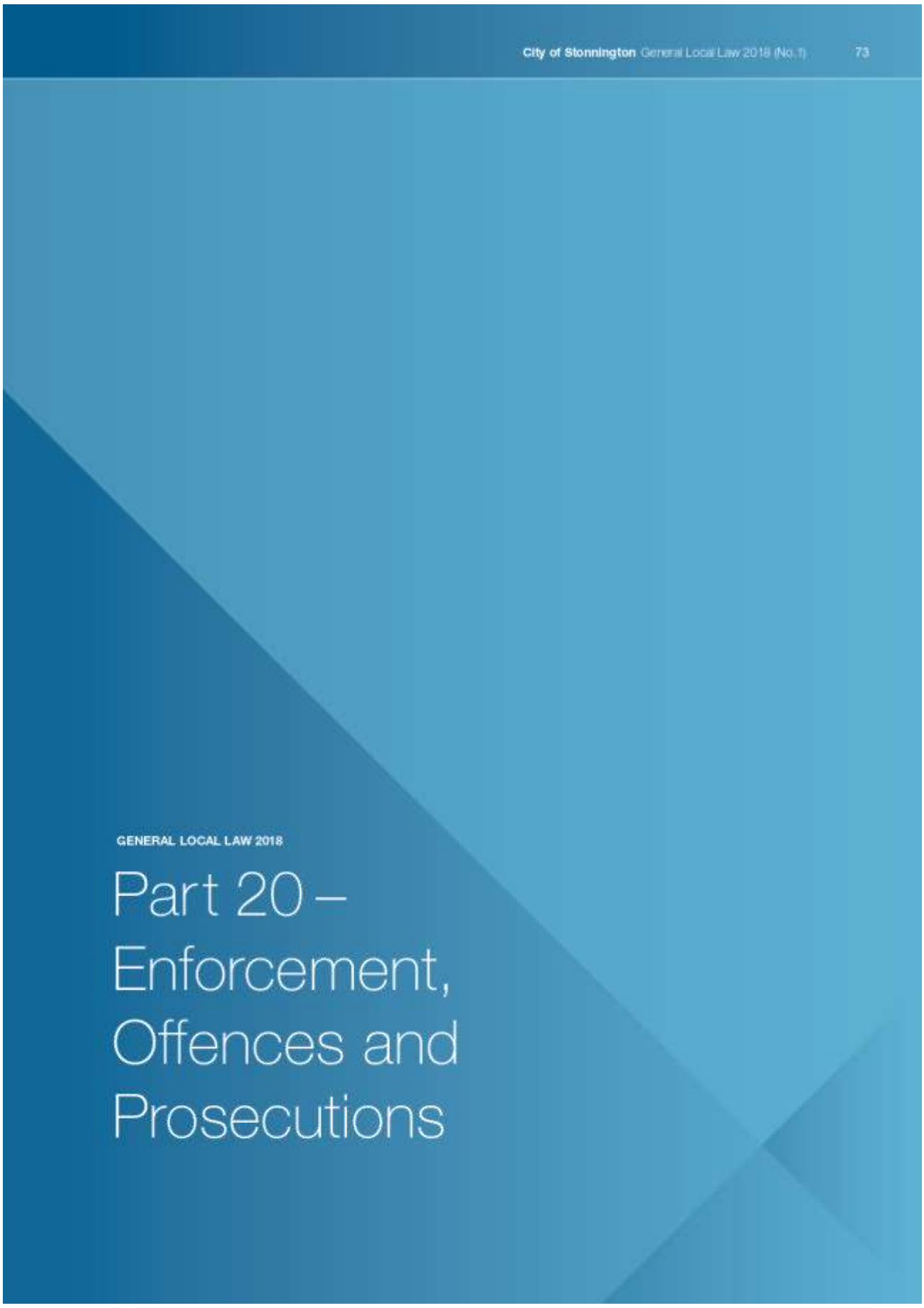

196. Recovery of Costs

In addition to any penalty under the Act or this Local Law, any expense, damage or loss incurred by Council in consequence of a breach of this Local Law or in the prosecution of a breach of this Local Law must be paid by the person committing such a breach.

197. Offences

A person is guilty of an offence if the person:

(a) does something that a provision of this Local Law prohibits to be done or makes an offence;

(b) fails to do something that a provision of this Local Law requires to be done;

(c) allows any act to occur by consent, neglect, omission or direction that is a contravention of this Local Law;

(d) engages in activity without a current Permit where a provision of this Local Law requires that person to obtain a Permit before engaging in that activity;

(e) breaches or fails to comply with a condition of a Permit issued under this Local Law;

(f) is the driver of a Motor Vehicle that is parked or left standing on Council Land as well as the registered owner of the Motor Vehicle (unless the owner of the Motor Vehicle complies with the operator onus provisions of Part 6AA of the **Road Safety Act 1986**).

198. General Penalties

(1) A person who is guilty of an offence against this Local law for which a specific penalty is not provided is liable to a penalty not exceeding 20 Penalty Units.

(2) In the case of a continuing offence a person is liable to a penalty not exceeding two (2) Penalty Units for each day after conviction for an offence during which the contravention continues.

199. Power to Impound

(1) An Authorised Officer may seize and impound a Motor Vehicle, Vehicle, sign, Goods or any other item where there has been a contravention of this Local Law.

(2) As soon as practicable after impounding any Motor Vehicle, Vehicle, sign, Goods or any other item an Authorised Officer must, if the name and address of its owner is known, serve a notice of impoundment on the owner.

(3) Council may determine, from time to time, a fee that must be paid by the owner of any impounded Motor Vehicle, Vehicle, sign, Goods or any other item before Council is required to release the Motor Vehicle, Vehicle, sign, Goods or any other item. Any impounded Vehicle, sign or Goods may be claimed by its owner after the payment of the relevant fees.

(4) Any impounded Motor Vehicle, Vehicle, sign, Goods or any other item not claimed within the time specified on the notice of impoundment or within seven (7) days of the impounding may be disposed of by Council by tender or public auction, transferred to the Council Waste Depot or given away.

200. Impersonating Council Staff

(1) A person who is not a member of Council staff must not, in any way, hold himself or herself out to be a member of Council staff.

(2) A person who is not a member of Council staff must not produce a document that contains the Council logo or Council name, unless authorised by Council.

(3) A person who is not a member of Council staff must not use a document that contains the Council logo or Council name, unless authorised by Council.

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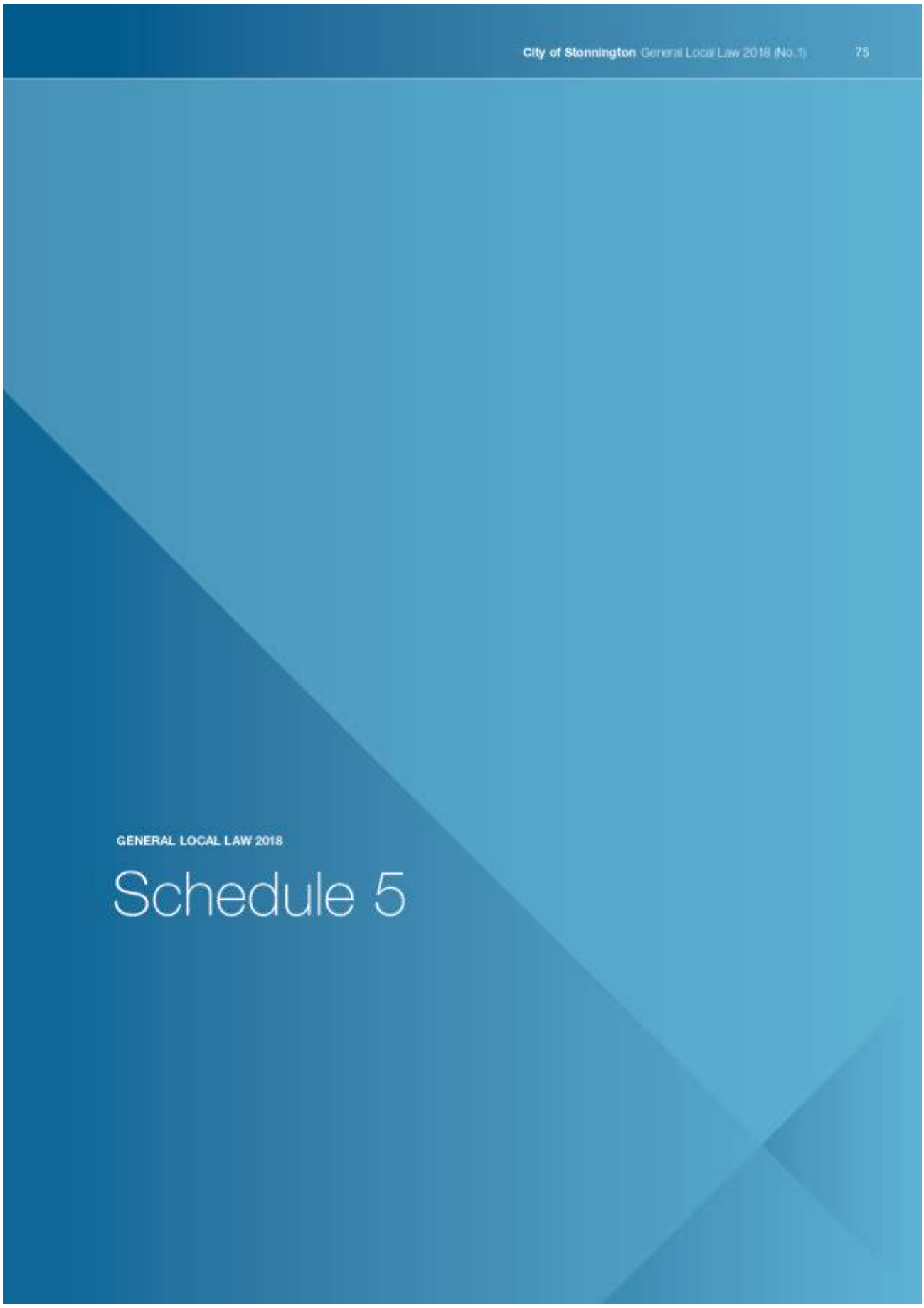

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SCHEDULE 5

PROCEDURAL MOTIONS TABLE

Procedural motion	Form	Mover and seconder
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion
3. The closure	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion

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	When motion prohibited	Effect if carried	Effect if lost	Debate permitted on motion
	(a) During the election of a Chair; (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
	(a) During the election of a Chair; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of Council has been made for that meeting in accordance with section 85 of the Act; or (d) When the motion would have the effect of causing Council to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the Agenda	Debate continues unaffected	Yes
	During nominations for Chair	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

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

Reference	D21/23229
Author	Rhys Thomas - Senior Governance Advisor
Authoriser	Group Manager Chief Executive's Office

Purpose

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

Critical analysis

History and background

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

Discussion

3. In order to undertake the duties of office, staff members listed in the recommendation require authorisation under the Planning and Environment Act 1987.

4. In addition, authorisation must also be provided under section 313 of the Local Government Act 2020 in order to enable these officers to commence enforcement action where necessary.

Options

5. No options are presented in this report.

Community and stakeholder engagement

6. No community engagement has been undertaken.

Policy analysis

Alignment to Council Plan

7. As part of Objective 7: A leading Yarra, the City of Yarra Council Plan 2017-2021 contains the strategy *"Maintain a culture of transparency, governance, ethical practice and management of risks that instils a high level of community respect and confidence in Council decision-making"*.

8. The transparent appointment of authorised officer ensures compliance with the law and Council's commitment to good governance.

Climate emergency and sustainability implications

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

Community and social implications

10. This report has no community or social implications.

Economic development implications

11. This report has no economic development implications.

Human rights and gender equality implications

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

Operational analysis

Financial and resource impacts

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

Legal Implications

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

Conclusion

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

RECOMMENDATION

1. In the exercise of the powers conferred by s 147(4) of the Planning and Environment Act 1987, Council resolves that:

   (a) Tim DALZIEL; and

   (b) Allison PASZNYK,

   be appointed and authorised as set out in the instrument at **Attachment One**; and

   (c) each instrument comes into force immediately it is signed by Council's Chief Executive Officer, and remains in force until Council determines to vary or revoke it.

Attachments

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

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

Instrument of Appointment and Authorisation
Planning Enforcement Officer

In this instrument "officer" means -

[INSERT OFFICER NAME]

By this instrument of appointment and authorisation, Yarra City Council –

1. under section 147(4) of the Planning and Environment Act 1987 - appoints the officer to be an authorised officer for the purposes of the Planning and Environment Act 1987 and the regulations made under that Act; and
2. under section 313 of the Local Government Act 2020 - authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this Instrument -

(a) comes into force immediately upon its execution; and
(b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the Yarra City Council on [insert date].

Vijaya Vaidyanath
Chief Executive Officer
Yarra City Council

[insert date]