

PUBLIC SPACE LAND ACQUISITION STRATEGY

Council's Public Space Strategy

Places for People: Public Space Strategy 2022-2032 sets out the vision and blueprint for the future of public spaces in the City of Port Phillip. It is intended to inform Council's planning and investment in public spaces. It was adopted in December 2021, following public consultation.

This Acquisition Strategy is anticipated by and flows from that Public Space Strategy.

The Priority Actions

The Public Space Strategy contains 118 commitments – in the form of neighbourhood Priority Actions – intended to be delivered by 2032.

Some of the commitments are to deliver new and expanded open spaces. Those specific commitments are noted in the tables below, arranged by neighbourhood area.

Balaclava / St Kilda East		Short: 2022-25	Medium: 2026-29	Long: 2030-32
Priority action				
12	Lansdowne Road Provide a new small local open space in Lansdowne Road	●		
13	Carlisle Street Activity Centre As part of any future redevelopment of the Coles Supermarket site and adjacent carpark, investigate options to provide a new open space to fill the gap in this area and create a community heart in the Carlisle Street Activity Centre, consistent with the Carlisle Street Activity Centre Structure Plan 2009.			●
14	Land acquisition in St Kilda East Provision for land acquisition for new public open space in St Kilda East.		●	●
17	Pakington Street Reserve Acquire the site adjoining Pakington Street Reserve with the existing Public Acquisition Overlay to expand and upgrade this open space, including the existing play space.			●
18	Woodstock Street Reserve Investigate opportunities to enlarge the reserve through reallocation of road space and undertake an upgrade. Further consultation to occur on removal of car parking.		●	

Elwood/Ripponlea				
Priority action	Short: 2022-25	Medium: 2026-29	Long: 2030-32	
12	Elwood Park and Elwood Foreshore Undertake a major upgrade to the open spaces along the Elwood Foreshore associated with the Elwood Foreshore Master Plan			●
14	Glen Eira Avenue Reserve Investigate options to reallocate road space to expand the reserve and improve integration with Glen Eira Avenue. Upgrade may integrate a future event space to complement the adjoining commercial interface, while retaining the residential interface and green character to Burnett Grey Gardens. Further consultation to occur on removal of car parking.		●	

South Melbourne				
Priority action	Short: 2022-25	Medium: 2026-29	Long: 2030-32	
12	New small local open space in South Melbourne Activity Centre As part of the development of the South Melbourne structure plan, investigate options to create a new small local open space to provide for residents and workers in this area and fill the gap in the area bounded by Dorcas Street, Clarendon Street, City Road and Ferrars Street. There are opportunities to consider repurposing parts of existing public land adjoining South Melbourne Market, recreation infrastructure and improve connectivity to Hester Reserve, Turville Reserve and Cook Reserve.			●
13	New Small Local open space in South Melbourne employment area As part of the development of the South Melbourne Structure Plan, investigate location options for a new small local open space in the heart of the employment area to fill the gap in the area bounded by Clarendon Street, Dorcas Street, Kings Way and West Gate Freeway. The open space should be located away from major arterial roads and provide a protected and peaceful green open space that encourages people outdoors as a break from work.			●
14	Sol Green Reserve Upgrade the park and play space to improve the character and quality of facilities, strengthening its role as a local community space. Investigate opportunities to enlarge the reserve through reallocation of road space. Further consultation to occur on removal of car parking.		●	
17	Eastern Reserve North Investigate the potential to expand the size of Eastern Reserve North through conversion of part of the adjoining road reserve in conjunction with the current Park Street tram extension. Identify options for the most appropriate design and future use in consultation with the local community.		●	

	This includes identifying if dog off-leash can continue to be supported in part of the reserve.			
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St Kilda Road				
Priority action		Short: 2022-25	Medium: 2026-29	Long: 2030-32
12	<p>Cobden Street Pocket Park</p> <p>Provide a new gathering place for pedestrians through a shared zone on Kings Place and Millers Lane as well as the new plaza created through partial road closure of Cobden Street. Plaza to include landscaping, tree planting, bike parking, seating and drinking fountains.</p>	●		

Available options for acquiring land

Council has the power to acquire land for a public purpose. Council may acquire the whole or part of a parcel of land.

Council typically obtains land by:

- (a) **purchasing** it; or
- (b) formal **statutory acquisition**.

Purchase occurs by:

- direct negotiation; or
- purchase on the open market.

Statutory acquisition occurs by:

- Public Acquisition Overlay; or
- Issuing a Notice of Intention to acquire a property that is publicly advertised for sale.

(There are also several statutory acquisition processes for acquiring land that are exempt from a Public Acquisition Overlay – for instance, for minor widening of a road – though they are not relevant here.

Additionally, Council can seek certification from the Governor in Council that reservation of the land by Public Acquisition Overlay is unnecessary, undesirable or contrary to public interest. However, this does not seem justifiable or appropriate in the circumstances).

When Council acquires using its statutory powers, it must follow the processes for acquisition set out in the *Land Acquisition and Compensation Act 1986*.

Compensation is payable as a result of the actual acquisition of the land. There is also a right to interim compensation, which occurs in limited circumstances – typically where the land is designated for future acquisition well in advance of it actually being acquired, and where affected landowners are unable to use or

develop the land fully during the intervening period because of the “blight” that the Overlay places in the land.

Strategy for acquiring land

The following are the most practical tools for acquiring the land identified in the Public Space Strategy. Officers propose to use a combination of them to achieve the required outcomes.

Public Acquisition Overlay

The normal, natural way for a municipality to acquire property is through a Public Acquisition Overlay – a planning instrument for reserving land for future acquisition. The Public Acquisition Overlay is put in place through an amendment to the Planning Scheme.

The overlay reserves the land for a public purpose to ensure that changes to the use of the land do not prejudice the purpose for which the land is to be acquired.

Amendments to the Planning Scheme take approximately a couple years.

Land may be included in a Public Acquisition Overlay well in advance of its proposed acquisition. Doing so assists the affected landowners and neighbours make informed decisions about the use and development of their land.

Under such an acquisition, compensation for dispossession of the land includes not merely market value, but also takes into account:

- any losses attributable to severance or as a result of disturbance;
- any enhancement or depreciation in value of the interest of the claimant and in other land adjoining or severed from the acquired land;
- legal, valuation or other professional expenses incurred;
- any special value to the claimant;
- any previous payment for loss on sale compensation or other forms of financial loss compensation payment;
- the use to which the property was put at the date it was compulsorily acquired; and
- the payment of compensation for any intangible and non-pecuniary disadvantages resulting from the acquisition, known as “solatium”.

Purchase on open market

In the target areas, about 3-4% of the parcels of land are available on the market at any one time. This creates opportunities to acquire/purchase them when they are marketed, (should they be suitable for public open space).

Officers monitor the market for such opportunities.

Council can negotiate a purchase once a property is offered for sale on the market, or bid at auction.

The advantage of such a purchase is that it involves a willing vendor, and there is not subsequent debate about the appropriate amount of compensation as the exchange is at market price. However, relevant properties may not come onto the market within the relevant timeframes, and may be further developed in the intervening period.

Notice of Acquisition once property is publicly offered for sale

Relatedly, if a property is for sale, Council may secure ownership through issuing a Notice of Acquisition. Compensation is then determined subsequent to acquisition.

Negotiated purchase, when property not on the open market

Even though Council has the power to compulsorily acquire land for public purposes, it may also enter into voluntary, negotiated land purchases.

Addressing the Priority Actions

The tables below indicatively summarise the approach for delivering the Priority Actions. Where the action requires acquisition, this may additionally be as a purchase or compulsory acquisition, should a relevant property be offered to the market.

Balaclava / St Kilda East		
Priority action		Approach
12	Lansdowne Road Provide a new small local open space in Lansdowne Road	Either: <ul style="list-style-type: none"> • Direct negotiation. • Public acquisition overlay.
13	Carlisle Street Activity Centre As part of any future redevelopment of the Coles Supermarket site and adjacent carpark, investigate options to provide a new open space to fill the gap in this area and create a community heart in the Carlisle Street Activity Centre, consistent with the Carlisle Street Activity Centre Structure Plan 2009.	Negotiation / contractual obligation.
14	Land acquisition in St Kilda East Provision for land acquisition for new public open space in St Kilda East.	Council has recently acquired a small site here. Additional land may be acquired by either: <ul style="list-style-type: none"> • Direct negotiation • Public Acquisition Overlay
17	Pakington Street Reserve Acquire the site adjoining Pakington Street Reserve with the existing Public Acquisition Overlay to expand and upgrade this open space, including the existing play space.	Council has recently acquired a site here.
18	Woodstock Street Reserve Investigate opportunities to enlarge the reserve through reallocation of road space and undertake an upgrade. Further consultation to occur on removal of car parking.	Road closure.

Elwood/Ripponlea		
Priority action		Approach
12	<p>Elwood Park and Elwood Foreshore</p> <p>Undertake a major upgrade to the open spaces along the Elwood Foreshore associated with the Elwood Foreshore Master Plan</p>	Development, including road closure
14	<p>Glen Eira Avenue Reserve</p> <p>Investigate options to reallocate road space to expand the reserve and improve integration with Glen Eira Avenue. Upgrade may integrate a future event space to complement the adjoining commercial interface, while retaining the residential interface and green character to Burnett Grey Gardens. Further consultation to occur on removal of car parking.</p>	Road closure

South Melbourne		
Priority action		Approach
12	<p>New small local open space in South Melbourne Activity Centre</p> <p>As part of the development of the South Melbourne structure plan, investigate options to create a new small local open space to provide for residents and workers in this area and fill the gap in the area bounded by Dorcas Street, Clarendon Street, City Road and Ferrars Street. There are opportunities to consider repurposing parts of existing public land adjoining South Melbourne Market recreation infrastructure and improve connectivity to Hester Reserve, Turville Reserve and Cook Reserve.</p>	<ul style="list-style-type: none"> • Direct negotiation • Public acquisition overlay • Road closure
13	<p>New Small Local open space in South Melbourne employment area</p> <p>As part of the development of the South Melbourne Structure Plan, investigate location options for a new small local open space in the heart of the employment area to fill the gap in the area bounded by Clarendon Street, Dorcas Street, Kings Way and West Gate Freeway. The open space should be located away from major arterial roads and provide a protected and peaceful green open space that encourages people outdoors as a break from work.</p>	<ul style="list-style-type: none"> • Direct negotiation • Public Acquisition Overlay • Road closure
14	<p>Sol Green Reserve</p> <p>Upgrade the park and play space to improve the character and quality of facilities, strengthening its role as a local community space. Investigate opportunities to enlarge the reserve through reallocation of road</p>	Road closure

	space. Further consultation to occur on removal of car parking.	
17	<p>Eastern Reserve North</p> <p>Investigate the potential to expand the size of Eastern Reserve North through conversion of part of the adjoining road reserve in conjunction with the current Park Street tram extension. Identify options for the most appropriate design and future use in consultation with the local community. This includes identifying if dog off-leash can continue to be supported in part of the reserve.</p>	Road closure

St Kilda Road		
Priority action		Approach
12	<p>Cobden Street Pocket Park</p> <p>Provide a new gathering place for pedestrians through a shared zone on Kings Place and Millers Lane as well as the new plaza created through partial road closure of Cobden Street. Plaza to include landscaping, tree planting, bike parking, seating and drinking fountains.</p>	Road closure / Road discontinuance

Acquisition opportunities

Officers have identified a pool of candidate properties, based on their: (a) suitability for delivery of a local park, considering factors such as sunlight access, orientation, dual aspects, and accessibility, heritage; and (b) suitability for acquisition, considering factors such as value of built improvements.

Through due diligence Officers confirm their suitability for Council ownership and value.

Road closure and discontinuation

As already noted, some of the Actions require road closure and/or discontinuation.

The fundamental requirement of any road discontinuance is for road to be no longer required for public purposes. Therefore, prior to commencing this process, the road is physically closed off for at least couple of years.

Our process for discontinuing a road, once it is deemed no longer required for public purposes, is as follows:-

- A survey plan of the area to be discontinued is prepared.
- A report to Council seeking permission to commence the statutory process for discontinuance.
- Removal of the road (or road segment) from the road register pursuant to section 17(4) of the *Road Management Act*.
- A public notice is published of Council's intention to discontinue the road.
- A report to Council to report the submissions.
- A final report to Council to confirm consider the submissions (if any) and/or to otherwise to seek approval to gazette the discontinuance.
- Gazettal of discontinuance.