

PORT PHILIP PLANNING SCHEME
PROPOSED AMENDMENT C149

INDEPENDENT ASSESSMENT OF SUBMISSIONS
VICTORIAN PRIDE CENTRE

21 AUGUST 2018

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GLOSSARY

the Act	the <i>Planning and Environment Act 1987</i>
the amendment	Amendment C149 to the Port Phillip Planning Scheme
the Council	the City of Port Phillip
CPTED	Crime Prevention Through Environmental Design
DDO6-2	Design and Development Overlay, Schedule 6, Area 2
DELWP	Department of Environment, Land, Water and Planning
LGBTQI	Lesbian, Gay, Bisexual, Transgender, Queer and Intersex
the planning scheme	the Port Phillip Planning Scheme
VPC	Victorian Pride Centre

NOTE that the illustrations of the proposed building design in this report are taken from the illustrations provided for consultation and may not exactly represent any final approved design.

EXECUTIVE SUMMARY

The purpose of this report is to provide an independent assessment of submissions made to proposed Amendment C149, an amendment to the Port Phillip Planning Scheme (the planning scheme) intended to facilitate the development of a site in Fitzroy and Jackson Streets, St Kilda for the Victorian Pride Centre (VPC).

The assessment has been conducted in accordance with the Terms of Reference attached at **Appendix 1**.

THE PROPOSAL

The VPC is to be the permanent home for the major Lesbian, Gay, Bisexual, Transgender, Queer and Intersex, (LGBTQI) organisations in Victoria. It will provide services, be a research centre and provide a meeting place for both the LGBTQI and broader community.



The VPC is proposed to be a mixed-use facility that includes offices, shops, food and drink premises, medical suites, function spaces, a reading room, a radio station, a gallery, multi-purpose spaces and ancillary associated amenities.

THE PROPOSED AMENDMENT

The proposed amendment will enable the development and use of the land for the VPC through site specific provisions set out in an incorporated document *Victorian Pride Centre - June 2018* and by rezoning the land at Lot 3/77 Fitzroy Street, St Kilda from Public Use Zone 6 to Commercial 1 Zone.

ISSUES AND ASSESSMENT

The public consultation process and expert assessment has identified a number of issues about the proposal that should be considered in determining if the proposal should proceed. In summary, these issues relate to:

- the building design and built form
- traffic and carparking
- amenity impacts from behavior and noise

- retaining and protecting existing trees
- various other issues.

This report considers the submissions made about each of these matters and provides an assessment and a conclusion. A recommendation is provided where it is considered that a specific action or change is necessary.

SUMMARY OF RECOMMENDATIONS

1. Council seek further information from the VPC about the intended function of the mast and consider whether or not a provision about managing the use of the mast should be included in the Incorporated Document.
2. The VPC provide Council with a revised Traffic Impact Assessment Report and Green Travel Plan.
3. The Incorporated Document be appropriately amended to require the provision of a traffic impact assessment report and a green travel plan, to the satisfaction of the responsible authority.
4. The Incorporated Document be appropriately amended to enable Council to impose a suitable time limit on parking in the basement carpark.
5. The Incorporated Document be appropriately amended to require the provision of electronic signage that indicates parking availability in the basement car park, to the satisfaction of the responsible authority.
6. The Incorporated Document and any relevant plans be appropriately amended to ensure that the final design and lighting of the car park, carpark entry area and the Jackson Street plaza area deliver an effective CPTED outcome, to the satisfaction of the responsible authority.
7. The Incorporated Document be amended at the relevant section to change 'Place of Assembly (including a function centre)' to 'Place of Assembly (other than Nightclub)'.
8. Council and the VPC consider the creation of a 'Good Neighbour Protocol' by the VPC in consultation with residents to establish a clear understanding of expected amenity and interaction outcomes and a pathway for discussion and resolution of issues as they arise.
9. The relevant condition of the Incorporated Document be revised to include a requirement to replace any of the three significant trees with an equivalent specimen to the satisfaction of the responsible authority should they be required to be removed during construction or within an agreed period after.
10. The approved Incorporated Document be based on the suggested revised version included at Appendix 5, modified as necessary.

Peter Allen
Independent Advisor

21 August 2018

1 | INTRODUCTION

1.1 BACKGROUND

The site was selected by the Board of the VPC after an Expressions of Interest (EOI) process to which three councils and one university responded. Three sites were shortlisted in Fitzroy, Melbourne and St Kilda. The St Kilda site won the EOI process.

The proposed building design results from a national design competition that was won by two St Kilda design firms, Brearley Architects and Urbanists and Grant Amon Architects, from a field of 18 designs. The competition was judged by an expert panel of seven members.

The project is supported by a funding allocation of \$15 million from the State government and the contribution of land at 3/77 Fitzroy Street (approximate value \$13 million) by the City of Port Phillip (the Council).

At the Ordinary Meeting of Council on 20 June 2018, the Council supported a request from the Board of the VPC to ask the Minister for Planning to amend the planning scheme using section 20(4) of the *Planning and Environment Act 1987* (the Act) to undertake the amendment after a community consultation and review process.

Council also asked that the Minister for Planning nominate an Independent Advisor to review the submissions received about the amendment and provide a report and recommendations to Council before it finalised its views about the amendment.

1.2 THE INDEPENDENT ADVICE PROCESS

The basis for the provision of this independent advice is set out in the terms of reference dated 18 July 2018. The terms of reference are attached at **Appendix 1**.

In particular, the terms of reference require that the Independent Advisor produce a written report that provides:

1. An assessment of matters raised in submissions.
This is provided in section 4.
2. A recommendation as to whether Amendment C149 should proceed.
This is provided in section 5.
3. Specific recommendations regarding any changes which the Independent Advisor considers are required to address matters raised in submissions (or other matters as deemed relevant).
These are provided in section 5.
4. Details of all matters relied upon in reaching recommendations.
*These are detailed in the discussion in this report and **Appendix 2**.*

The terms of reference enable the Independent Advisor to inform themselves as they see fit, including seeking clarification from or meeting any party. The submissions and expert reports provided to the Independent Advisor by the Council and the VPC were comprehensive. The Independent Advisor did not therefore seek further information from any party or meet with any party. The Independent Advisor has inspected the land.

1.3 COUNCIL'S CONSULTATION PROCESS

Council undertook an informal community engagement process for a month from 2 July to 3 August 2018.

Engagement included:

- Direct notice to 1200 businesses and residents who may be materially affected. This included properties in the direct vicinity of the subject site.
- Public notice in the *Port Phillip Leader* on 28 June 2018.
- Amendment documents available for inspection at the St Kilda, Port Melbourne and South Melbourne Town Halls and St Kilda, Emerald Hill, Middle Park and Port Melbourne libraries and on Council's website.
- Three public notices on the site including one on Fitzroy Street and two on Jackson Street (side and rear).
- Three drop-in-sessions held on 5 and 7 July 2018 to give interested members of the community an opportunity to meet Council officers and representatives of the VPC to discuss the proposed development.
- Targeted engagement with special interest groups including the Fitzroy Street Business Association.

As a result, Council received 32 written submissions. In addition to the written submissions, Council received verbal feedback from 54 local traders and community members who attended the drop-in-sessions.

The written submissions are reproduced at **Appendix 3**. Council included comment about the verbal submissions in section 7.1 of its submission.

INFORMATION PROVIDED TO THE INDEPENDENT ADVISOR

The Independent Advisor was provided with a comprehensive range of documents and information to support this review. This included documentation of the submissions received and the issues raised at public drop-in sessions, a detailed submission and various technical reports from the Council and a planning report and various technical reports from the VPC. The Independent Advisor also visited the site.

A full list of the information considered by the Independent Advisor is attached at **Appendix 2**.

The Independent Advisor considered all the submissions and other material provided. While the Independent Advisor has had to be selective in referring to material in this report, all submissions and materials were carefully considered regardless of whether they are specifically mentioned in this report.

1.4 DISCLOSURE STATEMENT

For the purpose of full disclosure, the Independent Advisor records that as a past executive in State Government planning departments and as a member of Planning Panels Victoria, he has had a professional association with Mr Peter McEwan, a member of the VPC Board. That professional association has not influenced the views expressed in this report.

2 THE PROPOSAL

2.1 THE PROPOSED SITE

The VPC is proposed to occupy land at:

- 3/77 Fitzroy Street, St Kilda (Lot 2 on LP132961);
- 79-81 Fitzroy Street, St Kilda (Lot 1 on TP345977L); and
- Crown Land adjacent to 79-81 Fitzroy St, St Kilda.

The land is on the south-eastern side of Fitzroy Street and abuts Jackson Street to the side and rear.



Figure 1: The proposed site is outlined in red.

The land is in the St Kilda Major Activity Centre, a significant recreational, entertainment and leisure destination. Fitzroy Street has a diverse range of restaurants, bars, hotels, shops, services, other retail premises and apartment buildings. The land (pictured in Figure 2) is situated between two existing commercial buildings, one used as a restaurant (83-83B Fitzroy Street) and one formerly used as a chemist but currently vacant (77 Fitzroy Street).

The adjoining site at 83-83B Fitzroy Street also contains a largely intact and original St Kilda Mansion (located behind the restaurant and visible in the photo below) that is a significant heritage place under the local heritage policy at clause 22.04 of the planning scheme.



Figure 2: Fitzroy Street frontage, the land is located at the centre of the image

Jackson Street adjoins the land to the side and rear and provides access to the existing Council owned car park at 3/77 Fitzroy Street (which is to form part of the VPC site), and for parking at the rear of the vacant building on the corner of Fitzroy Street and Jackson Street.



Figure 3: Jackson Street (side) looking towards Fitzroy Street.



Figure 4: Jackson Street (rear), looking east toward Grey Street. The land is on the left.

The land at 3/77 Fitzroy Street is currently an at-grade Council carpark that has 20 car spaces for public use. There are two mature peppercorn trees on this land that are proposed to be retained.



Figure 5: The Jackson Street carpark and the peppercorn trees.

2.2 THE VICTORIAN PRIDE CENTRE

The VPC is intended to be the permanent home for the major LGBTQI organisations in Victoria. It will provide services, be a research centre and provide a meeting place for both the LGBTQI and broader community.



VICTORIAN PRIDE CENTRE | BREARLEY ARCHITECTS AND URBANISTS & GRANT AMON ARCHITECTS

Figure 6: The proposed Victorian Pride Centre (Fitzroy Street is at bottom left).

The VPC will be a significant civic and community facility for Melbourne and Victoria and is considered by the proponents to be a project of State significance.

The project is proposed to include:

- a feature portico to the Fitzroy Street frontage
- outdoor amenity spaces including a ground level courtyard, a public plaza space at the southern corner of Jackson Street (retaining the two existing mature peppercorn trees) and terraces facing Fitzroy Street at levels 1, 2 and the roof
- amenities including store areas and staff facilities
- a basement car park with 27 car spaces accessed from Jackson Street
- 43 bicycle spaces.

More information about the VPC is available at <https://pridecentre.org.au/>.

2.3 AMENDMENT C149

The amendment seeks to introduce a site-specific control into the planning scheme to facilitate the use and development of the VPC and to rezone a portion of the subject land to the Commercial 1 Zone. The draft amendment proposes to do this by:

- amending the schedule to clause 52.03 to include reference to the incorporated document '*Victorian Pride Centre - June 2018*'
- amending the schedule to clause 81.01 to include reference to the '*Victorian Pride Centre - June 2018*'

- rezoning the land at Lot 3/77 Fitzroy Street, St Kilda from Public Use Zone 6 to Commercial 1 Zone.

The incorporated document would enable the construction of a multi-storey mixed use building (including car-parking and an accessible roof-top) to be used for offices, medical centre, shops, food and drink premises, a radio station, a place of assembly (including a function centre), a gallery, a reading room, the sale and consumption of liquor and associated car and bicycle parking.

Note that as the draft amendment was prepared before the introduction of Amendment VC148. Some of these clause numbers and some other provisions of the planning scheme have now changed. The amendment will need to be updated before it proceeds (see also section 5).

3 THE PLANNING CONTEXT

3.1 POLICY CONTEXT

The draft Explanatory Report identifies the policies of the Planning Policy Framework and local planning policy Framework relevant to the proposal.

The main policies relevant to the issues raised by submitters are noted below.

Clause 11.03 – Planning for places

The objective of the clause is to encourage, amongst other things, the concentration of major commercial, administrative, entertainment and cultural developments into activity centres.

The draft Explanatory Report states: *The amendment will help achieve this by facilitating the development of the headquarters and associated space for the major LGBTQI organisations from across Australia within a major activity centre identified through Plan Melbourne.*

Clause 15.01-2S Urban Design Principles

A strategy included in this clause states that development must consider the natural, cultural and strategic context of its location.

The draft Explanatory Report states: *The proposed building design will establish the building as a major landmark building within Fitzroy Street without compromising the significance of other key landmarks, views and vistas.*

Clause 21.04-2 Activity Centres

The clause contains a table which provides guidance on the future role and function of the Activity Centres within Port Phillip. The Fitzroy/Acland Street Major Activity Centre is identified for, amongst other things, speciality retail goods and services and a focus for community services and facilities.

The draft Explanatory Report states: *The amendment supports this clause by proposing a mixed-use civic building which will include services and facilities to support both the LGBTQI and wider community.*

Clause 21.05 Built Form

The draft Explanatory Report states: *The amendment introduces the Victorian Pride Centre Incorporated Document June 2018 which will guide the development of a significant building with high standards in architecture and urban design. The Incorporated Document accords with the objectives of the clause through seeking to ensure the development encourages a high quality design which contributes to the heritage values of the area. Clause 21.05-2 looks to protect and enhance the varied, distinctiveness and valued character of the neighbourhoods across Port Philip. The amendment will achieve this through delivering a building which draws its inspiration from St Kilda's architectural history and influence from other significant buildings within Fitzroy Street and the surrounding area.*

Clause 21.06-6 St Kilda

The draft Explanatory Report states: *The amendment supports the objective of the clause which has a vision to continue St Kilda's role and function as a creative and cultural hub along with residents of, and visitors to St Kilda. The Amendment supports this by providing creative, cultural, community and health facilities within the heart of St Kilda.*

Clause 22.06 Urban Design Policy for Non Residential Development and Multi Unit Residential Development

The draft Explanatory Report states: *The amendment is consistent with the objective of the clause which is to achieve high quality urban design and architecture that, amongst other things responds to the context of the place, integrates with the prevailing neighbourhood character and contributes to the amenity and vitality of the area. The amendment helps deliver the policy contained in the clause, which encourages the protection and enhancement of the public realm, through the distinctive portico structure over the Fitzroy Street footpath.*

Through its design, the amendment supports policy which achieves an attractive and visually interesting façade at street level with clearly legible entrances and surveillance over the street. The amendment will create an iconic landmark for Fitzroy Street, located between the Prince of Wales and the George Hotel (two other key land mark buildings within the street).

3.2 EXISTING PLANNING SCHEME PROVISIONS

The Council submission includes a table that identifies the matters that would require a planning permit under the existing provisions of the scheme.

The table is reproduced below.

Zone or Overlay	Would a planning permit normally be required?
Clause 34.01 Commercial 1 Zone	A permit is required to construct a building or construct or carry out works pursuant to Clause 34.01-4. A permit is required for the use of the land as Sale and Consumption of Liquor and Place of Assembly (would include 'function centre').
Clause 36.01 Public Use Zone	The proposed uses in this section of the site would require planning approval. A permit is required for buildings and works in for any section 2 (permit required) use.
Clause 36.04 Road Zone – Category 1	A permit is required for all proposed uses in the section of the site covered by this zone. None of the exemptions of Clause 62.01 apply in this instance. A permit is required to construct a building or carry out works related to a Section 2 (permit required) use, meaning that a buildings and works permit is required for that section of the proposal covered by this zone.
Clause 43.01 Heritage Overlay	A permit is required to demolish a building (including partial demolition) and to construct a building or construct or carry out works pursuant to Clause 43.01-1.
Clause 43.02 Design and Development Overlay	A permit is required to construct a building or construct or carry out works pursuant to Clause 43.02-2.
Clause 44.05 Special Building Overlay	A permit is required for the proposed buildings and works in the section of land covered by this overlay as none of the exemptions in Clause 44.05 apply.
Clause 52.02	A permit is required before an easement is created under Section 23

Zone or Overlay	Would a planning permit normally be required?
Easements	of the <i>Subdivision Act 1988</i> .
Clause 52.06 Car Parking	A permit is required for a partial car parking waiver, pursuant to Clause 52.06-3.
Clause 52.27 Licensed Premises	A permit is required to use the land to sell or consume liquor.
Clause 52.34 Bicycle Facilities	The proposal exceeds the number of bicycle spaces required, therefore no planning permit is triggered by Clause 52.34.

The effect of the proposed amendment and the Incorporated Document would be to remove the need for these planning consents provided the conditions of the incorporated document were met.

4 ISSUES AND ASSESSMENT

4.1 ISSUES RAISED BY SUBMITTERS

The 32 written submissions received by council are recorded at **Appendix 3**. A simple overview of the issues raised is set out in **Appendix 4**. Where a submitter is mentioned below, the submission number is identified in brackets.

In summary:

- 22 submitters supported the proposal
- 8 submitters conditionally supported the proposal but raised specific issues of concern
- 2 submitters did not support the proposal.

Section 7 of Council's submission sets out a summary of issues raised and Council's recommended response. Council's submission also included general statements about the feedback received at the drop-in sessions regarding various issues.

By letter dated 3 August 2018, SJB Planning on behalf of the VPC provided a Response to Key Concerns Raised.

This section sets out the various issues raised in submissions, the views expressed about them and an assessment of each issue. The issues raised are considered under five headings:

- building design and built form
- traffic and car parking
- amenity impacts from behavior and noise
- retaining and protecting existing trees
- other issues.

An ASSESSMENT and CONCLUSION is provided for each issue. A RECOMMENDATION is provided where it is considered that a specific action or change is necessary.

4.1.1 BUILDING DESIGN AND BUILT FORM

4.1.1.1 The design of the building

The proposed building design results from a national design competition that was won by two St Kilda design firms, Brearley Architects and Urbanists and Grant Amon Architects, from a field of 18 designs. The competition was judged by an expert panel of seven members.

As expressed by the architects: *'...the building has a strong identity, clearly different to the commercial architecture of Fitzroy Street, but it is also respectful of its context. It reaches out to Fitzroy Street and blurs the line between the interior and street, but also provides a secure place for the LGBTIQ community. The gallery, the ellipsoid atrium, the forum, the multi-purpose spaces and the roof top garden facilities are unique spaces within which the LGBTIQ community and the community in general can engage.'*

The predominant elements of the proposed design are:

- a series of 'tubes' intended to represent a modern and striking building form that draws expression from St Kilda's rich cultural and architectural history

- a feature portico extending the full width of the Fitzroy Street frontage that also supports a terrace above the portico.



Figure 7: View of the VPC showing the ‘tubes’ and portico

WHAT SUBMITTERS SAID

A number of submitters specifically supported the design, using terms such as ‘looks fantastic’ (10) and ‘iconic’ (27). One (4) considered the identification of the building as an LGBTQI facility was not strong enough.

A number of submitters who supported the proposal generally did not support or had concerns about the portico. This issue is discussed separately at section 4.1.1.4.

Some submitters considered the design to be excessive, using terms such as ‘domineering’ (19), ‘overdevelopment’, ‘bulky and unforgiving’ (21), ‘not in keeping with its neighbours’ (21) and ‘too large’ (25).

Some submitters (21, 25, 29) expressed concern about the bulk and impact of the proposed building when viewed from Jackson Street or Enfield Street.

WHAT COUNCIL SAYS

Council supports the design of the building and considers *‘the proposed building is of an appropriate scale for the site, is well articulated and responds well to its context with setbacks proposed to Jackson Street.’* Council’s City Design officer has made the following assessment:

- *‘The proposal is an excellent design concept which would deliver a landmark facility of a high architectural standard that positively contributes to the local and wider community.’*
- *‘The proposal building would provide a high quality contemporary response to the street, clearly distinct from the existing fabric of Fitzroy Street which highlights its function as an important centre for the LGBTIQ community.’*
- *‘The existing streetscape is varied and the proposal would be highly contemporary, an approach that would enhance that varied character.’*
- *‘The proposal would not mimic any nearby style but is considered to be compatible with them.’*

Council’s submission does not seek any changes to this aspect of the proposal.

WHAT THE VPC SAYS

The VPC says that:

'The VPC has been designed as a landmark building with a unique and timeless architectural design, appearing distinct within the streetscape. The building accommodates urban design setbacks and urban character objectives in Fitzroy Street; addresses solar access and perceived scale issues for residences at the rear in Jackson Street; manipulates the development envelope to save the existing trees in the residential area of Jackson Street; and, is shaped to ensure light and outlook from the floors overlooking any future development on the adjacent corner site.

As such it is considered the building will deliver a landmark building to Fitzroy Street at a scale appropriate for a Major Activity Centre that also respects the more sensitive residential interfaces, and is therefore appropriate.'

ASSESSMENT

The proposed building is a dramatic and unusual design, but has been strongly supported by most submitters. The design was selected from a large number of competing designs by an expert selection panel and arguably successfully melds the desire for a unique and iconic home for the LGBTQI community with the need to maintain a recognizably St Kilda aesthetic.

The location in a Major Activity Centre and a Commercial 1 Zone is appropriate for a multi-function building.

Consideration of the overall design is intimately linked to the design issues that most concerned some submitters: building height, setbacks and the portico. These issues are assessed in the following sections, but are not considered to warrant any substantial change to the overall design.

CONCLUSION

No substantial change to the overall design concept is required as a result of issues raised in the written submissions, however some minor changes may be required to address other recommendations of this report.

4.1.1.2 Building height

The proposed building will exceed the mandatory maximum building height of 16.5 metres applied to the land by Design and Development Overlay DDO6-2.

Parts of the proposed building (other than the mast) will reach a maximum height of about 21 metres. The parts higher than 16.5 metres include the curved 'shell' elements and an enclosed building element on the roof terrace. Some of these components would typically be exempt from meeting the mandatory 16.5 metre height limit of DDO6-2.

WHAT SUBMITTERS SAID

Five submitters were concerned about building height. Particular concerns were:

- The significant difference between the mandatory height required by DDO6-2 (16.5metres) and the proposed height of about 21 metres (which does not include the mast and some other features).
- The precedent that this might create for further height increased in Fitzroy Street.
- Loss of view and sky for residents in Enfield Street.

Council also advised that overall, the residents and traders attending the drop-in sessions indicated comfort with the overall height of the proposed building and the degree that it exceeds the mandatory height required by DDO6-2.

WHAT COUNCIL SAYS

Council considers that although the proposed height does not comply with the building height requirement of DDO6-2, the proposal does meet the DDO6-2 design objective '*to ensure building height and form reflects the topography of the foreshore and surrounding area*', because the building is of an appropriate scale for the site and responds well to its context. Council considers the additional height will have minimal visual impact from surrounding streets and views, including Jackson Street and Enfield Street.

Council considers that the proposal will not create a precedent for further height increases because '*...future planning applications would be required to comply with the DDO6-2 requirements, or seek a variation through a separate planning scheme amendment, rather than through a planning permit application.*'

Council's submission does not seek any changes to this aspect of the proposal.

WHAT THE VPC SAYS

The VPC made no specific comment about building height.

ASSESSMENT

There is considerable support in the written and verbal submissions for the VPC design to be iconic or outstanding. Given the location of the VPC in a Major Activity Centre and the aspiration to achieve a building that aspires to a strong identity, some latitude about the height is reasonable for this unique building.

Council considers that the design objectives of DDO6-2 are still met by the design. These design objectives are:

- To retain a street wall height that preserves the prominence of local landmarks including the George Hotel and the Prince of Wales Hotel and to accentuate the street's topography.
- To ensure upper levels provide visual connection with street level activity.
- To encourage the provision of weather protection to the footpath.
- To ensure that buildings are designed to provide casual surveillance of the street from upper levels.
- To ensure new buildings do not unreasonably overshadow the private open space of neighbouring residential properties.

The increased height is unlikely to create a precedent for other sites provided the design objective of DDO6-2 are still required to be met within the precinct.

CONCLUSION

The increased height can be justified, provided that the design objectives of DDO6-2 are still respected. Council considers that this is the case.

4.1.1.3 Side and rear setbacks, interface and shadow impacts

The proposed building is setback a minimum of 3.8m at the Jackson Street (rear) frontage. The setbacks increase at points due to scalloping of the façade that is designed to respond to the Tree Protection Zone needed to protect the existing peppercorn trees.

WHAT SUBMITTERS SAID

One submitter considers that the wall proposed at the rear facing Jackson Street is a 'high wall' that will create a feeling of 'claustrophobia' (25).

Two submitters consider that the proposal would cause prolonged shadowing to the surrounding area (21, 29).

Two submitters consider that the proposal would reduce natural light to residents along Jackson Street (21, 29).

Council also advised that overall, the drop-in-sessions indicated a level of comfort with the degree of overshadowing that would occur to the residential properties along Jackson Street.

WHAT COUNCIL SAYS

Council's City Design Officer considers that the proposed building is sufficiently stepped back from Jackson Street and would ensure adequate access to daylight is maintained for adjacent residential properties.

Council's submission does not seek any changes to this aspect of the proposal.

WHAT THE VPC SAYS

The VPC made no specific comment about side and rear setbacks.

ASSESSMENT

Shadow plans provided by the project architects show that the development will not overshadow the private open space of residential properties along Jackson Street between 9.00am and 2.00pm on 22 September.

CONCLUSION

The proposed building setbacks are satisfactory.

4.1.1.4 The portico

The proposed development provides a feature portico, extending the full width of the Fitzroy Street frontage. A terrace is proposed above the portico. The portico is supported by columns about 2 - 2.4 metres wide, creating a colonnade along Fitzroy Street over the footpath.

The portico will have a vertical clearance of about 6 metres to the footpath along the full Fitzroy Street frontage.

WHAT SUBMITTERS SAID

Nine submitters specifically mentioned the portico. Six generally supported the design, saying it was 'delightful' (23) and would be a 'welcoming and secure public entry' (32). One submitter (13) said it was important to 'avoid the dark feel of some of the low porticos further along the street' (13).



Figure 8: View of the proposed portico

Two submissions (1, 19) raised concerns about the visual impact on the Fitzroy Street streetscape, considering the portico to be an ‘overstatement’ (19) and that it would effectively create a building line at the edge of the footpath rather than at the property boundary (1). These submissions considered that removing the portico would allow the building itself to be the dominant feature.

One written submission (13) and people at the drop-in-sessions were concerned that the portico would result in loss of daylight to the footpath.

Council also advised that number of people at the drop-in-sessions raised concerns about the potential safety issues associated with the design of the portico and the width of the columns. There is concern that this may result in the loss of clear lines of sight and provide spaces which could encourage anti-social behaviour and loitering.

There were also concerns expressed through verbal feedback that the proposal could set a precedent for more similar porticos along Fitzroy Street.

WHAT COUNCIL SAYS

Council initiated a Crime Prevention Through Environmental Design (CPTED) analysis of the safety issues related to the portico. This analysis is included in the report *Safety in Design Review - Pride Centre* prepared by Salus Risk Consulting.

In the Conclusion to Council’s submission, Council states that:

Regarding the portico, Council considers that this design element is an integral and generally positive component of the proposed building design having regard to its potential to create a landmark building that matches the VPC’s role in the community going forward. Accordingly, Council is prepared to offer its conditional support for this design feature measure in this instance. However, before Council finalises its view on this matter, Council would like to carefully consider the results of both CPTED and daylight analysis reports, updated

arboricultural advice on the street tree, as well as the specific views of the Independent Advisor before it finalises its views on this matter.

WHAT THE VPC SAYS

The VPC considers that the portico is a critical and integral part of the overall winning design because of the following key design points:

- The portico colonnade is an integral and essential part of the architecture.
- The portico colonnade is essential to making the architecture highly visible on the street.
- The portico colonnade is necessary for the building to avoid looking like a commercial development and express itself as the civic/community/culture/wellness centre that it is.
- Several other buildings in Fitzroy Street have porticos.
- The proposed height of this portico colonnade ensures it will not only be a remarkable space due to its geometry but also will be a generous, comfortable and light filled space.
- The portico colonnade will be a textured concrete with integrated artwork.
- The colonnade is necessary to support the human activity on the terrace above.

The VPC has provided additional technical assessments about some of the issues raised:

- A daylight analysis of the proposed portico, prepared by Hip v Hype
- a sunlight analysis, prepared by the project architects.

The VPC agrees with Council's safety concerns with relation to the portico, and supports Council's decision to undertake a CPTED analysis to identify safety options that may be available if concerns are raised.

ASSESSMENT

The portico is an integral part of the overall winning design. For the same reasons that it is appropriate to consider a building that is higher than would normally be expected, it is reasonable to consider a portico that is unusual, provided that:

- there is an inherent relationship to the overall design objective
- the design provides satisfactory outcomes in terms of daylight, sunlight and community safety.

Daylight

The daylight analysis of the proposed portico compares the existing daylight received by the footpath with the daylight that would be received by the footpath if the portico is constructed. This analysis shows that the proposed portico will increase daylight to the Fitzroy Street footpath, mainly due to the increased height of the proposed portico compared to the existing canopy.

Sunlight

The sunlight analysis shows the proposed portico will increase sunlight access to the Fitzroy Street footpath at 3pm at the September equinox.

Community safety

The CPTED analysis says:

The portico will not afford climbing. The cast in-situ concrete faces will not provide climbing points.

The portico will not be planted with dense creeper or other vegetation that would provide hiding places. There are no inside corners that could provide hiding places. Gaps between the portico elements are visible from at least two sides, such as from motor traffic and tram traffic on the roadway, and from the footpath itself.

Impact on street trees

There is a related issue about retaining the Chinese elm street tree close to the portico. This is considered at section 4.1.4.

CONCLUSION

The daylight, sunlight and CPTED analyses show that there are no undesirable outcomes in relation to these issues. The portico is an integral part of the overall design and there is no significant reason why it should not be retained.

4.1.1.5 The Jackson Street plaza

Along Jackson Street at the rear, the development proposes to incorporate a small open 'plaza' area comprising 18 bike spaces and the two peppercorn trees that are proposed to be retained. A portion of the area is also proposed as a secure courtyard with access from inside the building.



Figure 9: View of the proposed plaza and Jackson Street interface

WHAT SUBMITTERS SAID

This issue was not specifically raised in the written submissions, however Council advised that some residents expressed concerns about the safety of this space and the potential use of the space for anti-social behaviour, loitering and sleeping rough.

Others support the plaza because it retains the two existing mature peppercorn trees.

WHAT COUNCIL SAYS

Council considers the interface with Jackson Street to the rear is generally well articulated. Council initiated a CPTED assessment to identify any measures or design changes that should occur to improve the safety of this public space for the community. This analysis is included in the report *Safety in Design Review - Pride Centre* by Salus Risk Consulting

Council supports retaining the peppercorn trees and the design of the rear facade but wants to consider the recommendations of the CPTED assessment before finalising a position on the design of the plaza.

WHAT THE VPC SAYS

The VPC supports a CPTED analysis to identify safety options that may be available.

The VPC has asked to be involved in the review process and have the opportunity to respond to these recommendations.

ASSESSMENT

Community safety issues related to the plaza and the car park area are discussed at section 4.1.3.1.

CONCLUSION

See section 4.1.3.1.

RECOMMENDATION

See section 4.1.3.1.

4.1.1.6 The mast or flagpole

A mast or flagpole is proposed on the roof top terrace. It is not clear whether the mast is intended to be used as a flag pole.

WHAT SUBMITTERS SAID

One written submission (24) does not support the use of the proposed mast to raise a rainbow flag, 'particularly at the heights proposed'. The submitter does not consider that one particular group should be elevated over others and that it is not Council's role to support an ideology.

WHAT COUNCIL SAYS

It is a Direction of *Council's Plan 2017-27* that 'We embrace difference, and people belong'. Consent to raise a flag could be given under Condition 27 of the draft Incorporated Document relating to signage as part of 'Advertising'.

WHAT THE VPC SAYS

The VPC made no specific comment about the mast.

ASSESSMENT

The intention for of the mast or flagpole is not clear from the information provided by the VPC. In addition, the design and location of the mast is proposed to be changed from the consultation version (see section 4.1.5.2).

Any use of the mast for a large flag, lighting or other form of display will be of potential concern to some community members and nearby residents.

CONCLUSION

Council should clarify with the VPC how the mast is intended to be used and consider whether or not a provision about managing the use of the mast should be included in the Incorporated Document.

RECOMMENDATION

- 1. Council seek further information from the VPC about the intended function of the mast and consider whether or not a provision about managing the use of the mast should be included in the Incorporated Document.**

4.1.2 TRAFFIC AND CARPARKING

Part of the land currently includes a Council car park with 20 car spaces.

The proposed development would provide 24-hour access to 27 car spaces in a basement car park, with 20 car spaces available for public use (replacing the existing car spaces) and seven for the use of the VPC. The entrance to the car park is from Jackson Street by a ramp to the lower level basement car park.

The development plans also show one motorcycle parking space in the basement.

The proposed development provides 43 bicycle parking spaces, with 25 in the basement and 18 located in the proposed plaza at Jackson Street. End of trip facilities for cyclists are also provided.

A draft Green Travel Plan has been prepared for the proposal.

The VPC propose visitors should largely use publicly available parking, public transport or cycle.

4.1.2.1 Traffic impacts

The Traffic Impact Assessment Report prepared by Irwin Consulting for the VPC estimates (page 16) that the development would generate up to 710 vehicle movements per day overall and 196 vehicle movements per hour during peak period.

WHAT SUBMITTERS SAID

One submitter (21) was concerned that the development would add to congestion along Fitzroy Street, particularly in summer.

Three submitters (15, 25, 29) were concerned about the impact on resident's ability to park and increase of traffic along Jackson Street and (25) that Jackson Street could become a two-way street and result in the loss of parking.

One submitter (13) considered the basement car park would be satisfactory.

WHAT COUNCIL SAYS

Council's Traffic Engineer has assessed the expected traffic generation and impact to the surrounding streets and considers:

- *The impact to Fitzroy Street would be acceptable as:*
 - *Fitzroy Street functions as a Major Road within Council's Road Hierarchy. The function of a major road is to cater for higher traffic volumes and provide connections to streets throughout the area.*
 - *The trips generated will be disbursed during the day, as the different uses proposed will expect visitors at different hours.*
 - *It is expected that visitors will consider alternative mode of transport because of the limited available off and on-street parking (e.g. public transport, walking, cycling, car sharing, etc.).*
- *The traffic impact to the one-way sections of Jackson Street should be minimised, given the primary function of the road is to provide access for residents to their properties and is not the preferred route for visitors to the VPC.*
- *Traffic generated from the site should be redirected to Fitzroy Street, which can accommodate greater traffic volumes.*
- *It is recommended that the VPC install advisory "RIGHT TURN ONLY" signage for drivers when exiting the basement level carpark.*

Council advised that it does not propose to make changes to the traffic direction in Jackson Street (between Grey Street and 41-43 Jackson Street).

WHAT THE VPC SAYS

The Traffic Impact Assessment Report says (page 16) that given the level of car parking provision on-site, the traffic generated by the development would be distributed among surrounding car parking facilities, including on-street spaces and that: *'Given the conservative peak of 196 vehicles within the development peak period dispersed among a network of streets surrounding the subject site, it is considered that the impact of the development on the surrounding road network would be negligible.'*

ASSESSMENT

The area is highly accessible by public transport and cycling connections. Both the Council and the Traffic Impact Assessment Report agree that traffic impacts will be acceptable in the location.

Council's request to install a RIGHT TURN ONLY sign is considered in section 4.1.2.3.

CONCLUSION

The traffic impacts from the proposal are consistent with expected activity in a Major Activity Centre.

4.1.2.2 The number of car spaces to be provided

Council has assessed the proposed development against the car parking rates for various land uses in clause 52.06 of the planning scheme and determined that 212 car spaces should be provided before a new use commences. This amount can be varied with a planning permit.

It should be noted that, following the recent introduction of Amendment VC148, the parking requirement for some of the proposed uses may have reduced.

The proposed development provides 27 car spaces in a basement car park, with 20 car spaces available for public use (replacing the current public car park) and seven for the use of the VPC.

WHAT SUBMITTERS SAID

One submitter (21) considered the proposal had ‘...no facilities planned for workers, or patrons or community groups’. Two submitters noted that ‘...parking is scarce for locals at the best of times’ (25) and “Enfield Street ... already deals with people driving up and down it searching for parking ...’ (29).

Council also advised that some residents and traders had raised concerns about the current lack of resident and visitor parking more broadly along Fitzroy Street and its surrounds and were concerned about the impact of the proposed development on the availability of that parking.

WHAT COUNCIL SAYS

Council acknowledges that there are grounds to consider a considerable car parking dispensation but considers that the Traffic Impact Assessment needs to be updated to include additional information to show how the:

- proposed shortfall of car parking would be accommodated
- car parking demand would be reduced, such by implementing a Green Travel Plan.

Council considers that the Traffic Impact Assessment Report submitted by the VPC needs further detail before a conclusion can be reached on a suitable car parking dispensation. Council has not specified the nature of that detail.

Council provided preliminary feedback on the Green Travel Plan submitted by the VPC. The Council considers that a well-prepared and implemented Green Travel Plan could help the VPC reach its target that 90% of trips to work and social events would be made by walking, cycling and using public transport. An effective Green Travel Plan would also help the Council achieve its target of no additional car trips in the municipality.

Council has identified a number of matters that it considers need to be further explored in the Green Travel Plan.

WHAT THE VPC SAYS

The VPC acknowledges the proposal seeks a significant car parking dispensation from the requirements of clause 52.06 of the planning scheme but observes this dispensation can be considered in the context of:

- the site being located in a Major Activity Centre
- the site being located immediately adjacent to the Principal Public Transport Network
- the policy objective to create sustainable, walkable cities that encourage the use of walking and cycling and assist in the creation of ‘20-minute neighbourhoods.’
- The current high surplus of off-street parking in the area.

VPC have provided a Traffic Impact Assessment Report prepared by irwinconsult. This report (p 14) concludes that the proposed number of car spaces is adequate because:

- *There is a significant amount of parking available proximate to the site, including both short-term and long-term spaces. This parking can be utilised by both staff and visitors who opt to drive to the site.*
- *The peak car parking demand is heavily attenuated by a number of factors:*
 - . *The excellent public transport and sustainable transport accessibility is expected to be the primary mode of transport for many staff and visitors to the site, with existing and proposed infrastructure expected to encourage uptake of these modes.*
 - . *The expected peak periods of uses within the Centre generally do not coincide with each other, particularly between the primary demand-generating uses being the office and places of assembly.*
 - . *Many visitors would visit multiple uses within the Centre as well as visit the site in conjunction with a trip to another nearby destination within the Fitzroy Street activity centre.*
- *Many sites in the same activity centre with similar uses to that of the proposed do not provide on-site parking, and*
- *The proposal is consistent with Council's vision as described within the Sustainable Transport Strategy, with regards to promoting uptake of sustainable transport options and reducing private motor vehicle reliance.*

The Traffic Impact Assessment Report includes the results of a parking survey conducted on Friday 23 February 2018 that identified 'significant' availability of short term and long-term parking in the area, including a long-term ticketed car park at the intersection of Jackson Street and Acland Street, about 300m walk from the site

The VPC has submitted a Green Travel Plan prepared by Ratio Consultants. The preparation of the Green Travel Plan included a survey of anticipated travel methods to and from the site by future VPC staff. From 120 responses, the survey shows that:

- 65 per cent of respondents indicated they would travel to the site by sustainable modes of transport. The remaining respondents would consider driving to the site, however if the cost of car parking is too expensive or traffic congestion is high, 58 per cent of these respondents would seek alternative forms of transport.
- Of respondents intending to drive to or from the site, 43 per cent indicated they would be seeking short-term parking and 57 per cent would be seeking long-term parking.
- Paying for the privilege of parking would discourage trips made to or from the site by private motor vehicle.
- 11 per cent of survey respondents would cycle to and from the site.
- 50 per cent of respondents indicated that if they received more information on alternative transport availability to the site they would be more likely to catch public transport or cycle.

The Green Travel Plan also proposes to encourage more sustainable transport use by future employees and visitors by:

- Providing a bicycle servicing area in the building.
- Implementing a Sustainable Transport Fund by a levy that will be applied to sustainable transport initiatives such as car share membership, public transport and bicycle equipment, servicing, insurance and repairs.
- Providing free Myki cards to staff.

- Providing new staff with a kit of information on public transport availability.

ASSESSMENT

The broader issue of resident and visitor car parking in the Fitzroy Street area is beyond the scope of this amendment. However, it is clear that the proposed development would create additional demand for public parking in the area, given the limited amount of parking proposed on site.

Council's local policy at clause 21.03-2 *Sustainable transport* of the planning scheme aims to reduce the impact of private cars on the liveability of the city by raising the profile of sustainable transport and encouraging people to walk more often.

The policy guidelines at clause 21.03-2 require that any proposal that seeks a dispensation in car parking be accompanied by an analysis prepared by a suitably qualified consultant that identifies:

- what the increase in car parking demand will be
- what impact this will have upon car parking demand in the area
- whether the car parking can be accommodated on site, and what the impact of this will be upon street parking
- where applicable, how the site will be accessed by heavy vehicles including the likely type and frequency of such vehicles, and the routes that they may use to access the site
- what the increase in traffic volume will be.

The proposal is supported by the Traffic Impact Assessment Report provided by Irwin Consulting for the VPC.

Council considers this analysis goes some way to undertaking the above requirements, but observes however that providing only 27 car spaces is a significant shortfall from the number of car parking spaces anticipated by clause 52.06 of the planning scheme.

Considerations put forward that support a dispensation include:

- the site is well located to public transport
- more bicycle parking is provided than is required, together with end-of-trip facilities
- parking survey results show an adequate number of short-term and long-term car spaces are available near the site
- the peak demand periods of the activities at the VPC are expected to occur at different times
- there are other sites in Fitzroy Street with similar intensity of use that do not provide on-site parking
- many visitors are expected to visit multiple uses in the VPC as well as visit in conjunction with a trip to another destination in the activity centre.

Implementing an effective Green Travel Plan will be an important complement to any car parking dispensation.

CONCLUSION

There is policy support to reduce the provision of on-site car parking in a Major Activity Centre, but any reduction needs to ensure that the cumulative transport impacts of the proposal are acceptable.

Given the proposal is located in an activity centre precinct, it is reasonable for most short-term car parking demand to be accommodated by publicly available car parking consistent with the parking arrangements of most other uses in the commercial precinct.

The exact extent of any reduction will need to be decided by Council after considering the requested revised Traffic Impact Assessment Report and revised Green Travel Plan.

RECOMMENDATION

- 2. The VPC provide Council with a revised Traffic Impact Assessment Report and Green Travel Plan.**
- 3. The Incorporated Document be appropriately amended to require the provision of a traffic impact assessment report and a green travel plan, to the satisfaction of the responsible authority.**

4.1.2.3 Availability and access to car parking

The basement car park will be accessed from an entrance in Jackson Street. The existing car park in Jackson Street is at grade and open to the public.

WHAT SUBMITTERS SAID

Three submitters (15, 25, 29) noted that parking is already difficult for residents as there are few permit only spaces and considered the loss of the carpark will make this worse. One submitter (15) asked that residents be allowed access to the carpark.

Council advised that some residents at the drop-in-sessions were concerned that the spaces allocated for public use would be frequently used by VPC occupants and visitors, given the limited car parking spaces proposed for the VPC.

Some residents at the drop-in-sessions were also concerned the public would not be aware that car parking in the basement of a private building was available to them.

WHAT COUNCIL SAYS

To support the use of the basement car spaces by the public, Council considers that time restrictions for the public car spaces should be investigated to limit all day use by occupants of the building.

To alert the general public to the presence of the basement car spaces, Council officers consider that direction signs should be provided as a condition of the Incorporated Document. Given there is limited room to manoeuvre in the basement, Council considers that the public should be aware of the availability of spaces in the basement before they enter.

These matters should be required as conditions of the Incorporated Document.

WHAT THE VPC SAYS

The VPC accepts the requirement for time limits on the public car park spaces but considers that:

'This level of detail is too onerous for an Incorporated Document, and can be requested by Council when plans are prepared and submitted to Council under Condition 1 of the Incorporated Document.'

The VPC does not accept the requirement for a RIGHT TURN ONLY sign because:

'...the project traffic engineers are of the view this is not required. The majority of traffic would be turning right anyway, and any motorists wishing to turn left would do so, even if a sign is provided. As such, the sign would be superfluous.'

The VPC does not accept the requirement for electronic directional signs because:

'This level of detail is too onerous for an Incorporated Document, and can be requested by Council when plans are prepared and submitted to Council under Condition 1 of the Incorporated Document.'

'Further, the project traffic engineers are of the view electronic signage is not required, as the car park has a capacity of 20 car parking spaces for the public and it is likely users will be regular users and will be familiar with when the car park reaches capacity, reducing movements.'

ASSESSMENT

The layout of the basement car park is constrained and will provide little capacity for public users to manoeuvre if they cannot find a space or other vehicles are also manoeuvring in the access lane. It would be very beneficial to users to be able to see electronic signage that indicates parking availability before they enter.

Applying a time limit to public parking in the basement carpark will ensure that parking can be fairly accessed by public users.

The need for a directional sign and a RIGHT TURN ONLY sign are matters that can be assessed after the VPC has been operating for a time. Council is likely to have the ability to erect such signage in the public road if the need is substantiated.

CONCLUSION

Council's request to apply a time limit to public parking in the basement carpark is supported.

Council's request for electronic signage to indicate parking availability in the basement car park is sensible and reasonable and should not be difficult to implement.

RECOMMENDATION

- 4. The Incorporated Document be appropriately amended to enable Council to impose a suitable time limit on parking in the basement carpark.**
- 5. The Incorporated Document be appropriately amended to require the provision of electronic signage that indicates parking availability in the basement car park, to the satisfaction of the responsible authority.**

4.1.3 AMENITY IMPACTS FROM BEHAVIOR AND NOISE

4.1.3.1 Community safety at the carpark entrance and the plaza

WHAT SUBMITTERS SAID

This issue was not specifically raised in the written submissions, however Council advises that local residents and traders have expressed concerns about the safety of the publicly accessible underground car park, given the lack of surveillance and access restrictions. There are concerns that this will encourage anti-social behaviour, loitering, sleeping rough and drug use.

WHAT COUNCIL SAYS

Council initiated a CPTED analysis of the safety arrangements of the car parking area. This analysis is included in the report *Safety in Design Review - Pride Centre* by Salus Risk Consulting.

Council proposes that the development plans of the draft Incorporated Document be amended to provide details on:

- Time limitations on the public car bays to prevent long stay and all day parking by building occupants.
- An electronic directional sign that provides an indication of the availability of the public bays, for the purpose of advertising the availability of the public bays.

WHAT THE VPC SAYS

The VPC agrees with Council that *'potential safety arrangements of the car parking area requires further investigation'* and supports a CPTED analysis to identify safety options that may be available.

The VPC has asked to be involved in the review process and have the opportunity to respond to these recommendations.

ASSESSMENT

The CPTED analysis notes (p 13) in regard to the carpark and carpark entry that:

The ramp vehicle access to Jackson Street could be a vulnerable location.

The first and most robust option is to provide a gate and fence to prevent unauthorised access. For example a palisade-style design cannot be climbed.

Further deterrence can be achieved by the creation of clear sightlines, effective lighting and landscaping that makes places attractive, but does not provide offenders with a place to hide or entrap victims.

Management is to ensure that space is appropriately utilised and well cared for. Glazing and lighting, both to the east and west of the ramp, could give a greater impression of surveillance, thereby deterring potential crime. Putting the lighting on a motion sensor may assist.

The analysis notes (p 13-14) in regard to Jackson Street and the plaza area that:

The perimeter on the Jackson Street facades should be well-lit with vandal resistant lighting. Automatic motion-sensor lighting will assist in reducing crime if it tends to actuate as a person approaches a secluded area.

Lighting should not be so bright as to:

- *prevent users from observing people approaching from the dark.*
- *cause nuisance to neighbouring residential properties compared to existing conditions.*

This outcome can easily be achieved in conjunction with lighting (and/or electrical) consultant.

Seating should be designed to be adequate for short-term use only and should not be so comfortable as to encourage long-term occupation and sleeping.

Seats and associated street furniture should be located with unobstructed sightlines to the footpath, street and any nearby buildings. Along the seating area there should be enough space for a mobility impaired person (e.g. wheelchair user) or with a child's pram to wait comfortably, undercover if possible.

CONCLUSION

Given the location, it is very important that the design of the external interface areas adequately respond to community safety issues through good CPTED design. This will require close consideration of the fine detail of design, lighting and finishes and can be dealt with as final plans are approved.

RECOMMENDATION

- 6. The Incorporated Document and any relevant plans be appropriately amended to ensure that the final design and lighting of the car park, carpark entry area and the Jackson Street plaza area deliver an effective CPTED outcome, to the satisfaction of the responsible authority.**

4.1.3.2 Licensed areas and noise

The VPC is proposed to include offices, shops, food and drink premises, radio station, medical centre, place of assembly (including a function centre), reading room, gallery and the sale and consumption of liquor.

Spaces on the ground floor, second level and the rooftop terrace are proposed to be licensed. These licenced areas would be confined to the 'red line areas' depicted on the (draft) development plans that form part of the draft Incorporated Document. These plans contemplate the use of the licensed areas for 'Multi-purpose room' (Ground floor), 'Place of Assembly / Function centre' (level 2), and 'Roof-top amenity space' (level 4/rooftop).

There is also a 'commercial café/ food and drink premises' located on the ground floor that is not proposed to be licensed.

WHAT SUBMITTERS SAID

Three written submissions (3, 25, 29) and verbal feedback from the drop-in-sessions expressed concern about the potential for noise, particularly from events held on the open rooftop terrace, to impact the amenity of the neighbouring residential area. Submitters observed that '...large gatherings on the rooftop could be a nightmare for the surrounding neighbourhood' (25) and 'Noise is one of the most serious issues we deal with on a daily basis in our area...' (29).

One submitter (3) considers that liquor licensing should be kept to a minimum and another (25) considered that the roof top should not be used for functions but for quiet relaxation.

One submitter (32) supported a wider range of licensed venues becoming available.

One submitter (21) was concerned that the proposed licensed premises would worsen the anti-social behaviour being experienced by residents along Fitzroy Street, Jackson Street and Grey Street.

Council advised that generally, local residents and traders who attended the drop-in sessions were comfortable with the VPC containing a number of function spaces that would be licensed and intended to cater for events.

WHAT COUNCIL SAYS

Licensed premises

Council notes that the site is in a Major Activity Centre and the Commercial 1 Zone. There are many licensed premises, including bars, bottle-shops and late-night premises along Fitzroy Street.

The Commercial 1 Zone is a flexible zone and would ordinarily allow a number of uses without the need for a planning permit, including use as a 'bar'. A permit would be required for a 'nightclub'.

The draft Incorporated Document does not limit the use of the VPC to the uses specified on the plans and in the Incorporated Document, so there is potential opportunity to also allow the building to operate as a bar (under 'Food and Drink Premises') or a nightclub (under 'Place of Assembly').

Council considers using the VPC for Place of Assembly / function centre and a café/food and drink premises is ancillary to the overall function of the facility, with the predominant use being 'office'.

Because the land is close to the Jackson Street residential area Council is highly supportive of the conditions in the draft Incorporated Document that seek to ensure the operation of the proposed uses and licensed areas has minimal impact on the surrounding residential area. This includes:

- confining licenced areas to those within 'red lines' marked on the development plans in the draft Incorporated Document ('proposed licensed areas') on the ground floor, second floor and roof-top
- confining the sale and consumption of liquor to between 10am to 1am for indoor licensed areas; and 10am to 10pm for outdoor licensed areas
- limiting the number of patrons for licensed areas to 90 on the ground floor, 140 on the level two function space and 100 on the roof top
- restricting the use of outdoor areas after 10pm
- requiring doors and windows to outdoor areas to be closed after 10pm
- requiring noise levels to meet the relevant noise levels stipulated by the relevant State Environment Protection Policies for noise and for monitors and limiters to be fitted to control this outcome.

The VPC have verbally acknowledged that the building is not intended to operate as a 'nightclub' so Council considers that the use of the building as 'nightclub' should not be allowed by the draft Incorporated Document.

Council considers that the control in the draft Incorporated Document should be amended to ensure that the use of the land is limited to those uses specified in the Incorporated Document. This will provide certainty and transparency to stakeholders and the community.

Council proposes that section 4.0 Control' of the Incorporated Document should be amended to:

- remove the words 'but is not limited to'
- change 'Place of Assembly (including a function centre)' to 'Place of Assembly (other than Nightclub)'.

Noise

Council considers that the proposed rooftop would be unlikely to generate substantial impacts on nearby residential properties because there are conditions in the draft Incorporated Document to manage hours of operation (between 10am and 10pm), limit patron numbers (to 100 persons) and confine the sale and consumption of liquor to the 'red line area' which is located toward the Fitzroy Street frontage.

Council consider that the conditions included in the draft Incorporated Document that require the development to operate in accordance with an acoustic report that expressly requires the use of noise limiters are sufficient to protect local amenity from unreasonable noise.

Anti-social behaviour

Council considers that while the conditions of the draft Incorporated Document seek to prevent amenity impacts on the residential areas, they cannot prevent the anti-social behaviour of people generally in the area, whether they have previously attended the subject site or some other venue nearby or elsewhere.

WHAT THE VPC SAYS

The VPC agrees with the proposed change to the Incorporated Document about use of the land as a nightclub.

ASSESSMENT

The draft Incorporated Document outlines a number of 'amenity and noise' conditions for the purpose of minimising the impacts of the proposed use of the development. This includes limiting operating hours of operation and the number of patrons within the proposed licensed areas, as well as managing noise levels.

The scope of permitted uses in the Incorporated Document should accurately reflect the uses intended for the building. Given that use as a nightclub is not intended, the amendment to the Incorporated Document proposed by Council to change 'Place of Assembly (including a function centre)' to 'Place of Assembly (other than Nightclub)' is appropriate.

Council's proposal to remove the words 'but is not limited to' from the Incorporated Document is discussed at section 4.1.5.1.

Consideration of the submissions about amenity and traffic impacts on the adjacent residential areas in Jackson Street and Enfield Street does highlight the need for the VPC to be conscious of the potential impacts of its activities on these nearby residential areas and to be respectful of those owners and residents.

Council and the VPC should consider the creation of a 'Good Neighbour Protocol' by the VPC in consultation with residents to establish a clear understanding of expected amenity and interaction outcomes and a pathway for discussion and resolution of issues as they arise.

CONCLUSION

The proposed conditions in the draft Incorporated Document relating to amenity and noise should appropriately manage the concerns of submitters.

The permitted uses in the Incorporated Document should not include uses that are not intended.

RECOMMENDATION

- 7. The Incorporated Document be amended at the relevant section to change 'Place of Assembly (including a function centre)' to 'Place of Assembly (other than Nightclub)'.**
- 8. Council and the VPC consider the creation of a 'Good Neighbour Protocol' by the VPC in consultation with residents to establish a clear understanding of expected amenity and interaction outcomes and a pathway for discussion and resolution of issues as they arise.**

4.1.4 RETAINING AND PROTECTING EXISTING TREES

The Chinese elm on Fitzroy Street and the two peppercorns at the rear of 3/77 Fitzroy Street are proposed to be retained, subject to arborist advice.

A number of other trees and vegetation on the land are proposed to be removed, including a large peppercorn on Jackson Street (side) and three desert ash trees on neighbouring land at 77 Fitzroy Street.

Permission will need to be sought from the owner of 77 Fitzroy Street to remove the three trees as they are located on the boundary of this site.

The draft Incorporated Document requires provision of an Arborist Assessment to indicate how existing trees on and immediately adjacent to the site proposed for retention could be retained and maintained in good health.

WHAT SUBMITTERS SAID

One submitter (13) said retaining the two peppercorn trees was important to retain the '...green canopy in Jackson Street and the familiarity of the street for residents'.

One submitter (29) is concerned with the proximity of the development to the peppercorn trees and worries that interference with their roots '...will cause detrimental consequences for these beautiful trees'. This submitter also appears to think that the peppercorn on the side boundary is intended to be retained.

WHAT COUNCIL SAYS

Council's arborist has reviewed the arborist report provided by the VPC (see below) and considers that:

- The arborist report does not consider the extent to which the portico, particularly the location of the columns and footings would impact on the Chinese elm on Fitzroy Street and that the assessment should be revised accordingly before Council considers its position on this.
- Provided tree protection fencing and management outlined in the arborist report is adopted and effectively implemented for the duration of the construction process, the two peppercorn trees on Jackson Street (rear) should remain viable into the future.
- The peppercorn tree proposed for removal on Jackson Street (side) is considered 'Significant' under the Local Law and a permit would be required to facilitate its removal. Due to the poor structural condition of this tree, it is likely a permit would be granted. However, this would be conditional on a replacement tree of similar ultimate size being replanted to offset the canopy loss. This process is separate to the planning process.
- The remaining trees within the site can be removed without requiring a permit.
- A number of additional measures need to be included in the proposed maintenance and management regime.

Council's arborist considers the portico could have an impact on the survival of the Chinese elm street tree on Fitzroy Street given the proposed location of a column and its respective footings within the Tree Protection Zone and the extent of pruning that would be required.

Council considers that the arborist report will need to be refined to fully consider the impact of the proposed portico on the Chinese elm.

WHAT THE VPC SAYS

The VPC has submitted an arborist report prepared by Arboriculture Pty Ltd. The report says that:

- Significant encroachment into the Tree Protection Zone of the two peppercorn trees at Jackson Street would be required during construction however, this should not have long-term impacts on the health or structural stability of the trees provided that tree protection fencing and management is implemented for the duration of construction.
- The Chinese elm on Fitzroy Street will need to be pruned to provide clearance for the proposed portico. The roots of a Chinese elm grow opportunistically and it is possible that that critical tree roots can be avoided during excavation. An arborist will need to be present at the time of excavation to determine the impact of the excavation for the footing. Measures have been proposed to protect the tree if it is determined it can be retained. However, if roots judged to be significant to the tree's health and stability need to be severed then the tree will need to be replaced.

The report also provides recommendations about the specific management and maintenance of the trees proposed to be retained.

The VPC considers the contribution of the portico to the overall design of the building would be compromised by any modifications required to allow for the retention of the street tree, and if the street tree is required to be removed, a suitable replacement tree can be planted along Fitzroy Street. This is considered appropriate when considering balancing objectives within a Major Activity Centre.

ASSESSMENT

The Chinese elm

Both the VPC arborist and Council's arborist consider the location of a portico column is likely to affect the survival of the Chinese elm given the proposed location of the column and its footings in the Tree Protection Zone and the extent of pruning that would be required.

Council has asked that aspects of the arborist assessment for this tree be reviewed before a decision is made.

The VPC say that the portico should not be modified and the tree can be replaced if necessary.

As this tree is a street tree on public land, this is ultimately a decision for the Council. Subject to the further assessment that Council has sought, the preferred outcome is to retain the tree if possible. If this is not possible, the tree should be replaced with an equivalent specimen.

The peppercorns

Both arborists agree that these trees can be successfully retained provided appropriate construction protection measures are implemented.

These trees have a very significant impact on the amenity and feel of the interface with residential properties in Jackson Street and their retention will be in some measure a compensation for the other impacts the VPC will have on nearby residents. They should therefore be protected and retained as is proposed. If either tree is lost, the tree should be replaced with an equivalent specimen.

CONCLUSION

The two peppercorn trees in Jackson Street (rear) should be retained as proposed. The Chinese elm should be retained if possible.

Should any of these three trees not be able to be retained or not survive because of construction, the tree should be replaced with an equivalent specimen, to the satisfaction of the responsible authority.

The arborist report should be updated as requested by Council as soon as possible.

RECOMMENDATION

9. **The relevant condition of the Incorporated Document be revised to include a requirement to replace any of the three significant trees with an equivalent specimen to the satisfaction of the responsible authority should they be required to be removed during construction or within an agreed period after.**

4.1.5 OTHER ISSUES

4.1.5.1 Proposed changes to the Incorporated Document

Both the Council and the VPC have proposed changes to the draft Incorporated Document provided with the draft amendment documents. The VPC provided an alternative 'track changes' version as part of their submission. The views of the Council and the VPC are not consistent on some matters.

A number of the proposed changes are minor, however there are several matters where revision will improve the clarity and operational efficiency of the document.

ASSESSMENT

Given that the Independent Advisor is of the view that the document needs significant revision, rather than comment individually on each proposed change, a revised version is attached at **Appendix 5** which is considered a more appropriate basis for the final approved document.

Minor changes are not specifically discussed but their basis should be apparent. The more significant changes are discussed below.

Operation of plans

The Incorporated Document envisages a two-level hierarchy of plans. The Development Plans that form part of the Incorporated Document and Endorsed Plans that the responsible authority approves and may amend from time to time.

An Incorporated Document forms part of the planning scheme and can only be changed by a planning scheme amendment. It is not therefore appropriate or lawful for the Development Plans to be changed in any other way. This was proposed by the VPC but is not included in the revision for this reason.

The Development Plans are overall plans that provide a basis for agreement about the expected form of development. The Endorsed Plans are the equivalent of the plans that would accompany a planning permit and should be sufficiently detailed for that purpose. For this reason, the Development Plans would only need to be dimensioned where a dimension is a critical matter. The Endorsed Plans should be dimensioned sufficiently for their purpose. This was a matter raised by the Council.

Identification of the agreed range of use and development allowed

The description of the range of use and development to be allowed is not consistent between the amendment document and the Incorporated Document. For consistency, a standard form of words should be used wherever this description is required in a statutory document.

The addition of 'subdivision' in the description is not necessary as subdivision is included in the definition of development in the Act. This was proposed by the VPC.

Council has proposed that the phrase 'but not limited to' be deleted from the Incorporated Document to provide greater certainty and transparency for stakeholders about what is being allowed. The VPC do not support this change and consider that the conditions of the Incorporated Document should not unreasonably limit logical and expected or complementary uses that the VPC may seek to provide for over time.

The provisions of the Incorporated Document are intended to be an alternative to the existing clear provisions of the Commercial 1 Zone. The nature of the allowed uses in the VPC should be clearly specified in the Incorporated Document and not be subject to change or interpretation in a non-statutory way. The phrase 'but not limited to' should therefore be deleted.

Similarly, the VPC does not support the retention of condition 3 of the draft Incorporated Document, which requires Requirement to show the location, net floor area and proposed extent of each specific use to be shown on a plan together with an assessment of the potential amenity impact. VPC say that this condition is unreasonably onerous. The condition is considered onerous. Once the Council has determined the extent of the uses to be allowed, the VPC should be able to conduct those uses without undue restriction. The amenity impacts of all uses are addressed by relevant conditions in the Incorporated Document.

Requirement to secure future off-site parking if required by Council

A condition of the draft Incorporated Document proposes that the Traffic Impact Assessment report must:

... identify opportunities for off-site parking spaces that could be used for the subject site and if required to support any proposed waiver in car parking rates, the report must demonstrate how the use of these spaces will be secured to the satisfaction of the Responsible Authority. The actions / recommendations of this document must be carried out to the satisfaction of the Responsible Authority.

The VPC consider that this condition is onerous and unwarranted.

Including such a requirement is having an 'each way bet' and is not appropriate. The car parking requirement for the proposal should be determined and made clear at the time of approval. It is not reasonable to impose a future liability that may or may not occur and where the basis for any decision to trigger that liability is not specified. This requirement has been removed from the revised draft.

Requirement for staff to undertake a *Responsible Serving of Alcohol* course

This matter is not a planning matter and most likely duplicates the requirements of a liquor license. If so it should be deleted.

Conditions related to crossovers and windows to adjoining land

Council has proposed the inclusion of two conditions relating to crossovers. The VPC supports those conditions and they should be included.

The VPC included a condition in their proposed revised draft about windows to adjoining land. The condition is reasonable and should be included.

Other changes proposed by the recommendations of this report

Recommendations 3, 4, 5 and 9 of this report recommend changes to the Incorporated Document. These matters have been either included or noted in the suggested revised version.

CONCLUSION

The effectiveness of the proposed Incorporated Document would benefit significantly from a revision. The suggested revised version provided at **Appendix 5** includes the changes noted in this section where necessary.

RECOMMENDATION

- 10. The approved Incorporated Document be based on the suggested revised version included at Appendix 5, modified as necessary.**

4.1.5.2 Changes to the development plans requested by the VPC

The VPC have sought changes to the development plans, as these have evolved from those considered by the community during community consultation because of the detailed design process and the feedback received from stakeholders.

WHAT SUBMITTERS SAID

The proposed changes have not been available for public comment.

WHAT COUNCIL SAYS

Council has not provided comment on the proposed changes.

WHAT THE VPC SAYS

The proposed changes are:

- A reduction in the building setback at levels 3 and 4 by 1.2 metres from the Fitzroy Street frontage.
- Inclusion of 24 square metres of additional office space at mezzanine level.
- Modifications to windows (including deletion and addition).
- Detail of the extent of the solar array at rooftop level.
- Detail of the rooftop flagpole.

The changes are principally driven by structural engineering requirements and construction ease and cost considerations.

The VPC considers the additional car parking requirement generated by the inclusion of additional office space will be offset by the reduced car parking rates now specified in clause 52.06 of the planning scheme because of the recent introduction of Amendment VC148.

The VPC considers these changes will be largely imperceptible when viewed from the public realm.

ASSESSMENT

The VPC provided a design rationale that includes an assessment of the impact of the reduced front setback on the overall building design and proposes that this change will not have a significant impact.

The effect of small changes to floor space on parking requirements can be considered as part of Council's decision about the extent of the car parking dispensation that is appropriate (see section 4.1.2.2).

Changes to the mast or flagpole are discussed at section 4.1.1.6. This change is not likely to be 'imperceptible'.

CONCLUSION

The changes to the plans proposed by the VPC should be assessed by the Council.

4.1.5.3 Rezoning the carpark land to C1Z

The amendment proposes to rezone lot 3/77 Fitzroy Street (the Jackson Street carpark) from Public Use Zone 6 to Commercial 1 Zone to reflect the proposed transfer of the land to the VPC and out of public ownership.

WHAT SUBMITTERS SAID

Two submitters (25, 29) do not support the rezoning of public land to 'commercial' because it:

- would negatively impact on the amenity of the residential area
- could set a precedent for more large scale commercial development along Jackson Street, potentially replacing residential buildings in the future.

WHAT COUNCIL SAYS

Council supports the rezoning, noting that:

- the current rezoning reflects the use of the land as a Council owned car park and is not appropriate into the future should this land use and ownership structure not continue
- the amenity impacts of the proposed use and development are considered to have been adequately addressed
- the rezoning will not create a precedent because adjoining areas are subject to controls either in the General Residential Zone or the Design and Development Overlay DDO6-2 that will appropriately manage any future development proposal.

WHAT THE VPC SAYS

The VPC did not comment on this matter.

ASSESSMENT

Whether or not this land remains in public ownership is a decision for the Council. As the Council has decided that the land will be transferred to the VPC, it is not appropriate for the land to remain in the Public Use Zone.

The land uses proposed for the VPC are consistent with the range of uses anticipated in the adjoining Commercial 1 Zone, so this is an appropriate zone to replace the Public Use Zone.

4.1.5.4 Use of Council funds

The Council has agreed to contribute the land at 3/77 Fitzroy Street to the VPC. This is equivalent to a financial contribution of about \$13 million.

WHAT SUBMITTERS SAID

Two submitters (9, 24) do not support the use of Council funds to support the project.

WHAT COUNCIL SAYS

Council notes that decisions about expenditure are considered by separate process and are not a relevant consideration to the current planning proposal.

Council's control of funds and expenditure is separate to its need to assess planning proposals under its role as a planning authority under the Act. The appointment of an Independent Advisor to consider the submissions received about the amendment ensures a transparent process.

WHAT THE VPC SAYS

The VPC did not comment on this matter.

ASSESSMENT

Allocation of funding is a matter for the Council to decide separately and does not affect consideration of the amendment.

4.1.5.5 Painting Jackson Street

One submitter (29) believed that Jackson Street was to be painted in rainbow colours and considered that this would '...make the area look like a theme park and this clearly has not been discussed with residents'. The street has recently been painted in rainbow colours (see figure 3).

ASSESSMENT

This is not a matter that affects consideration of the amendment.

However, the response does highlight the need for the VPC to be conscious of the potential impacts of its activities on the nearby residential areas and to be respectful of those owners and residents. This issue is discussed at section 4.1.3.2.

5 SHOULD AMENDMENT C149 PROCEED?

Use of section 20(4) of the Act

Planning Practice Note 29 *Ministerial Powers of Intervention in Planning and Heritage Matters* sets out the conditions where the Minister for Planning will consider the use of the powers in section 20(4) of the Act to approve an amendment. These conditions include:

- 1 *The matter will be one of genuine State or regional significance. Such situations may include, for example, those:*
 - *where the determination of the application may have a substantial effect on achievement or development of State or regional planning or heritage objectives;*
 - *which raise a major issue of State or regional policy or public interest such as the implementation of Melbourne 2030 objectives;*
 - *which could have significant effects beyond their immediate locality.*

and

- 2 *The matter will give effect to an outcome where the issues have been reasonably considered and the views of affected parties are known.*

On the basis of the information provided, it is considered that it open to the Minister to consider that both these conditions have been satisfied.

Use of clause 51.01 of the planning scheme or the Specific Controls Overlay

One of the purposes of clause 51.01 of the planning scheme is to:

To provide in extraordinary circumstances specific controls designed to achieve a particular land use and development outcome.

The purpose of the new Specific Controls Overlay is the same.

The VPC is clearly a unique facility and, while not inconsistent with the expectations and provisions of the current Commercial 1 Zone, does have a range of special features that mean it is reasonable to consider the application of this provision as a means to achieve planning approval for the proposal.

The introduction of Amendment VC148

The recent introduction of this amendment has changed a number of sections of the planning scheme. This means that the draft explanatory report and the amendment documents will need to be revised and updated before finalisation.

VC148 also introduced the Specific Controls Overlay, which is now the preferred means of implementing a site-specific amendment such as this proposal. Subject to confirmation with DELWP, the amendment should be revised to use the Specific Controls Overlay. This is not expected to have any significant consequence for the amendment.

APPENDIX 1

TERMS OF REFERENCE

Terms of Reference

Victorian Pride Centre Independent Advisor

Date: 31 July 2018

Overview

The Port Phillip City Council has determined to appoint an Independent Advisor to review submissions and advise Council on draft Amendment C149 to the Port Phillip Planning Scheme, which seeks to facilitate the development of the proposed Victorian Pride Centre and be undertaken pursuant to section 20(4) of the *Planning and Environment Act 1987*. Whilst the appointment is made on an informal basis, the report of the Advisor will be made public.

Purpose

- a. To consider Amendment C149 to the Port Phillip Planning Scheme, which is proposed to facilitate the use and development of the Victorian Pride Centre and be progressed pursuant to section 20(4) of the *Planning and Environment Act 1987*.
- b. To consider all submissions received during the community engagement period – 2 July 2018 to 3 August 2018.
- c. To provide a report and recommendations to the Port Phillip City Council in relation to proposed Amendment C149 to the Port Phillip Planning Scheme, with advice on any changes to the Amendment (including the Incorporated Document comprising Development Plans and Conditions) it considers appropriate, having regard to issues raised in submissions and any other matters deemed relevant to the proposal.

Background

1. In April 2016, the Victorian Government announced funding to establish the Victorian Pride Centre (VPC), a new hub for the LGBTIQ community.
2. Following a competitive selection process, the Victorian Government and Port Phillip City Council announced Fitzroy Street, St Kilda as the future home of the VPC.
3. A design competition undertaken by the Victorian Pride Centre Board and the Royal Australian Institute of Architects produced a preferred concept design, which has since been the subject of more detailed planning and refinement by the Victorian Pride Centre Board and the winning architects.
4. The proposed design requires an amendment to the Port Phillip Planning Scheme to proceed as it does not meet a number of the mandatory design requirements contained within Schedule 6 to the Design and Development Overlay (Clause 43.02 of the Scheme) which applies to the land.
5. An amendment to the Port Phillip Planning Scheme is also required to rezone the property at Lot 3/77 Fitzroy Street to a Commercial 1 Zone, from the current Public Use zone (PUZ6) which reflects its existing use as a Council owned car park.
6. The Victorian Pride Centre Board has requested that Port Phillip City Council initiate an amendment for the above purposes, pursuant to section 20(4) of the *Planning and Environment Act 1987*.
7. This request highlighted a desire for a planning approval process that can meet milestones related to the release of funding for the VPC, and to deliver the project by the scheduled

opening in November / December 2020. It also recognises the project as one of state significance.

8. The request specifically seeks an amendment to the Port Phillip Planning Scheme by way of incorporation of a site-specific planning control in the Schedule to Clause 52.03 (specific sites and exclusions).
9. At its Ordinary Meeting of Council on 20 June 2018, Council resolved to support this request in-principle, subject to the outcomes of a robust community engagement process and the appointment of an Independent Advisor to consider informal submissions. The Minutes of that meeting are available on Council's website at:
<http://www.portphillip.vic.gov.au/Minutes%20Ordinary%20Council%2020%20June%202018.pdf>
10. The informal consultation period commenced on 2 July 2018 and ends on 3 August 2018. Written submissions are lodged via Council's Have Your Say webpage.

Method

11. The City of Port Phillip will refer a copy of the proposed Amendment C149 (draft documentation and supporting information as made available during the community engagement process), and all written submissions received to the Independent Advisor by no later than midday on 6 August 2018.
12. The Independent Advisor will review all submissions received and provide a report to Council by close of business on 15 August 2018. The report must make recommendations to the Council as to whether proposed Amendment C149 to the Port Phillip Planning Scheme should be progressed and what changes (if any) are required to respond to matters raised in the submissions that have been referred (or other matters as deemed relevant by the Advisor).
13. The Independent Advisor may inform themselves by any means they deem fit, but must consider all relevant matters including, but not limited to:
 - a. The relevant provisions of the *Planning and Environment Act 1987*.
 - b. The relevant provisions of the *Port Phillip Planning Scheme*.
 - c. The views expressed in all submissions received during the consultation period.
14. The Independent Advisor is not expected to conduct hearings or meetings but may request clarification from any party if they consider that this is required.
15. If the Independent Advisor decides to meet with any party, it must advise the City of Port Phillip of this and provide an opportunity for the City of Port Phillip; and the Victorian Pride Centre Board (if the Advisor deems this to be appropriate), to be represented at the meeting with at least one (1) full day of notice.

Outcomes

16. The Independent Advisor must produce a written report for consideration by Port Phillip City Council which provides for the following:
 - a. An assessment of matters raised in submissions.
 - b. A recommendation as to whether Amendment C149 should proceed.
 - c. Specific recommendations regarding any changes which the Independent Advisor considers are required to address matters raised in submissions (or other matters as deemed relevant).
 - d. Details of all matters relied upon in reaching recommendations.

Timing

17. The Independent Advisor is to submit a report to the Port Phillip City Council by the close of business on 15 August 2018.

Costs

18. The costs of the Independent Advisor are to be met by the Victorian Pride Centre Board.

**PETER SMITH
CHIEF EXECUTIVE OFFICER
CITY OF PORT PHILLIP**

APPENDIX 2

LIST OF DOCUMENTS PROVIDED FOR CONSIDERATION

The following documents were provided to the Independent Advisor.

DOCUMENT NAME	
1	The written submissions received (reproduced in Appendix 3)
2	<i>Proposed Amendment C149 - Victorian Pride Centre. City of Port Phillip Submission</i>
3	<i>Proposed Amendment C149 Submission on behalf of the Victorian Pride Centre</i> , SJB Planning, 3 August 2018
4	The draft amendment documents for Amendment C149, including the draft Explanatory Report
5	Draft incorporated document, Victorian Pride Centre, June 2018 (Includes Development Plans REV G, 20 June 2018)
6	Revised Development Plans REV J prepared by the project architects, 31 July 2018
7	<i>Victorian Pride Centre, For Public Consultation Purposes, Schematic Design Renderings</i> prepared by the project architects, July 2018
8	VPC area schedule prepared by the project architects, 6 July 2018
9	Amended VPC area schedule prepared by the project architects, 31 July 2018
10	<i>Planning Scheme Amendment Request, Planning Assessment Report</i> , SJB Planning, June 2018
11	Architect's statement prepared by the project architects, 8 June 2018
12	<i>Access and Key Use Plans</i> prepared by the project architects, 20 June 2018
13	Shadow diagrams prepared by the project architects, 6 June 2018
14	Shadow diagrams prepared by the project architects, 17 July 2018
15	<i>Traffic Impact Assessment Report</i> prepared by irwinconsult, 28 June 2018
16	<i>Arboricultural Inspection Report</i> prepared by Arboriculture Pty Ltd, August 2018
17	<i>Victoria Pride Centre, Preliminary Daylight Assessment</i> prepared by Hip v Hype, 26 July 2018
18	<i>Sustainability Town Planning Submission, Victorian Pride Centre, St Kilda</i> prepared by Hip v Hype, 29 June 2018
19	<i>Proposed Mixed Use Building, Green Travel Plan, Victorian Pride Centre</i> prepared by Ratio Consultants, 27 July 2018
20	<i>Design Rationale for Reduced Setback to Fitzroy Street Façade Level 2 to Level 4</i> prepared by the project architects (undated)
21	Preliminary comments on the Green Travel Plan, Council e-mail 10 August 2018.
22	<i>Incorporated Document (VPC Alternative)</i> prepared by SJB Planning, August 2018
23	<i>Incorporated Document (VPC Alternative) Tracked Changes Version</i> prepared by SJB Planning, August 2018

APPENDIX 3

WRITTEN SUBMISSIONS RECEIVED BY COUNCIL

NO.	SUBMISSION
1	<p>I am not in favour of the feature portico element. It is essentially a large wall built right on the edge of the footpath, and will be by far the most dominant element in the streetscape of Fitzroy Street. It will effectively create a building line at the end of the footpath, rather than on the property boundary like all the other buildings on Fitzroy Street, or indeed Melbourne generally.</p> <p>This portico is similar to, but much more prominent than, the portico attached to the Prince of Wales Hotel extension. That portico is more or less an exaggerated version of a posted verandah, whereas the proposed portico is a precast wall, albeit with large curved cut outs. It will darken a large part of the footpath, and like the Prince of Wales portico may well end up with semi-permanent weatherproof structure at balcony level, further emphasising its built character.</p> <p>While it is a striking element of the project, if it were to be a simple posted verandah or a non accessible cantilever one, the curved, open tube-like form of the building itself become the dominant feature. The building has a number of 'tops', with a two storey front section and an L shaped 4 storey section behind, all of which would be far more visible without such a solid portico.</p>
2	<p>As a resident of the City of Port Phillip and a gay man, I would use this facility frequently for community activities and to attend meetings associated with the Victorian AIDS Council. I don't think these suggested planning changes are unreasonable given the architects' plans and hope that Council will see fit to approve them</p>
3	<p>My main concerns are the increase in height from 16.5m to 21m. That is a significant difference and I don't want to see this become a precedence for other buildings in the area. Part of the appeal of St Kilda is the fact is has little high rise buildings we don't want to become another Richmond or South Yarra eyesore.</p> <p>Also why does this building require that height for a Roof Top Bar? Re Zoning to a Commercial Zone and the fact this venue want to sell liquor leads me to believe another bar or club may be on the cards and again St Kilda does not require more noise pollution. I am all for this building I think it will be great for the area however I am opposed to the increase in height and liquor licencing should be kept to a minimum.</p>
4	<p>The pride centre is an amazing, I am really looking forward to seeing what it becomes! One thing that stands out straight away is that it is looks like just anyone other building in Melbourne. Nothing identifies it as a building dedicated to the LGBTQ+ community. There's many ways this can be done - rainbow flags, murals, signage. When reading the amendment I was concerned that it may be watering down the focus on the LGBTQ+ community to become just another local council community centre with some focus on the LGBTQ+ community. But I look forward to seeing how it engages with the community and become a key institution in the LGBTQ+ community!</p>
5	<p>Approved in accordance with the stated philosophy of Council to revive Fitzroy St</p>
6	<p>The proposed amendment can only add value to the building, and to the surrounding area. The proposed building is well stepped back from both Jackson St and Fitzroy St and will add vibrancy and interest to both.</p>
7	<p>I support the proposed amendment. Further, the roof and columns on Fitzroy street are an excellent. These will provide a significant improvement and addition to the Fitzroy street scape and the grandeur of the building.</p>
8	<p>Very exciting building for Fitzroy Street. The proposed columns in the street look beautiful and grand and I feel they will add to the streetscape of Fitzroy Street and I feel they should be retained. Well done to everyone involved.</p>
9	<p>While I don't oppose the Gay Pride Centre I am opposed to Port Phillip Councils cash reserves being raided by over \$10 million to help fund this "private" facility for gays and lesbians. They should mostly fund it themselves. Another concern is reoccurring maintenance of the building as I am sure that the committee will have their hand out in 10 or so years time for more ratepayers fund despite them saying the contrary.</p>
10	<p>Looks fantastic. Couldn't think of a better project for either the LGBTQI community or the Fitzroy Street</p>

NO.	SUBMISSION
	business community. Please hurry!
11	Better to more this forward than sit in planning for a year. We need this for our community and the street needs revitalisation. Great public transport access. I am really proud of my council's support and foresight here. Lasting Economic and social impacts.
12	It's important to have a voice for all age audience, especially (18-30). Give more of a clear layout and understanding such as a 20 min presentation. Stay connected and informative via social media and have fun days is and event. Be bubbly open and inspiring at social event make it as welcoming as possible. Thank you.
13	I am really impressed with the design of the new Pride Centre, and hope it will help enliven and reinvigorate Fitzroy St for local residents and visitors alike. Saving the two peppercorn trees on Jackson St if at all possible is important - for retaining green canopy in Jackson St and the 'familiarity' of the street for residents. It is also important that the portico over Acland St is high enough to let in light for those walking along the street to avoid the dark feel of some of the low porticos further along the street. Car parking beneath the building should address any parking concerns and of course with public transport so close, many visitors will likely come by tram. All in all the Pride Centre will be a terrifically positive asset in Fitzroy St. As a local resident, I feel very positive about it. Thanks for the chance to comment.
14	Awesome project
15	There is little parking for residents. Street parking is already difficult as there is very few permit only spots. Please allow residents to park in the two designated car parks. Thanks.
16	<p>Thank you for the opportunity to attend the community consultations last week and meet with COPP and VPC staff, and view plans and associated documentation. The VPC is a very exciting project for both Victoria and St Kilda and its establishment is welcomed encouraged and supported by many member of the LGBTI community. The COPP should be congratulated for its significant contribution to the project along with the Victorian State Government.</p> <p>I look very forward to the planning process being expedited so that this exciting project can be truly realised. Thank you again for the opportunity to view the documentation, meet with staff and have input into this exciting project.</p>
17	I Accept amendments
18	I believe this will be of great benefit to people who are sometimes discriminated against, and will also benefit St Kilda and Fitzroy street, making it safer for women and other residents, and will also be welcomed by businesses, shopkeepers and restaurant owners. I hope the building can go ahead as they request.
19	<p>I am in support of the Gay Pride centre in principle, and am sure it will help to raise Fitzroy St from its present quagmire. Obviously also of great benefit to the LGBTIQ+ community. My major concern with amendment C149 is that it is over exuberant in granting an easing of height restrictions embedded in DDO6 from 16.5 metres to 21metres, a massive concession.</p> <p>I welcome the gay pride's presence, but see no need for it to be an over domineering statement in its build. I would rather the building be inclusive, and blend in with the neighbourhood. My other concern is the bulk of the portico, which is another over statement.</p>
20	<p>I am a local resident on Jackson Street and am broadly supportive of the Pride Centre proposal. My concern is with car park design and safety measures particularly for women. This area of St Kilda attracts a diverse range of (presumably also why this location was chosen) I believe more consideration should be given to this aspect in your proposal.</p> <p>At present there is an open car park which is used by residents and visitors. Residents depend on 24 hour access to this parking, particularly in the summer when St Kilda becomes a tourist hot-spot. The car park also attracts other users at night including drug users and prostitution. There is enough passive surveillance that if anything were to happen, there is a possibility of a passer-by being made aware.</p> <p>My concern is that an underground car park will continue to attract such activities but will not have the benefit of passive surveillance.</p> <p>Last week I helped a very vulnerable woman to travel from the city to St Kilda. She had left her partner in country Victoria and had been told she could pick up work on Grey Street. It was her first time in Melbourne. She was clearly affected by drugs, shaking, scared and crying, but was still willing to put herself</p>

NO.	SUBMISSION
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in danger to work. Fortunately, she agreed for me to take her to a crisis accommodation centre on Grey Street where I hope she got some help. Shame on anyone who picks up such a vulnerable woman, but unfortunately it happens. Women such as her are the ones that end up in car parks and despite their condition, also need protection. I'm sure many residents have had to do the same as I did as this is a daily occurrence.

A car park so close to Grey Street is no ordinary car park, and I would encourage you to consider the safety of residents, visitors and vulnerable women. Measures such as CCTV may serve as a mild deterrent but I don't believe it will be sufficient in this context. Regards

21 The proposed building footprint is an overdevelopment of the site area. Removes public car spaces where car parks are already at a premium. Has no parking facilities planned for workers, or patrons or community groups looking to use the facilities? The use of portions of the development for licensed premises will add to and enable further the antisocial behaviour already being experienced along Fitzroy St, Jackson Street and Grey Street by residents. Building height exceeds planning overlays. Reduces natural sunlight to residents with n/w facing habitable windows. Causes prolonged shadowing to the surrounding. The development will add to the traffic congestion along Fitzroy street, particularly in the spring-summer months. The scope and architecture of the development are not in keeping with its near neighbours the proposed development far exceeds anything else within its vicinity and will create a precedent for future bulky and unforgiving architecture to become the norm along Fitzroy street.

22 As a 33 year resident of City of Port Phillip / Port Melbourne, and active contributor to the LGBTIQ community, the services and activities to be provided by The Pride Center are crucially important to the many current and future LGBTIQ residents of City of Port Phillip, as well as residents of greater urban Melbourne and the State.

It will also bring many new people and new business opportunities to shops along Fitzroy Street, replacing its current sad space with prosperous economic activity. I fully support the proposed amendments.

23 The proposed Victorian Pride Centre is an important civic, social and cultural development that will be located in the heart of St Kilda and will provide a range of community facilities and services in a building designed over five levels. Its presence will signify an important recognition of the many individuals and groups who identify as LGBTIQ and are members of the wider community, but outside the 'main-stream' of society. Based on the draft information provided, this well-designed and exciting building will become an important element in the streetscape, taking cues from other local public buildings and adding to the vibrancy of the Fitzroy Street locality. It will provide a focal point for many people in the wider community and will become a prominent destination for visitors. Demonstrating high quality, the building design exhibits a strong urban character with vaulted roof elements, scalloped facades, setbacks of building mass and a high portico at street level. The building design is an inspiring response to a complicated brief prepared by the client group, the project budget and the framework of current planning regulations. Relatively minor projections above the permitted building heights and the delightful street level portico that covers the footpath are insignificant areas of non-conformance to the current planning requirements. These items will not cause detriment to adjacent landowners, or to the amenity of the area. In contrast, the high portico at street level will provide positive experiences to those entering the building or sitting at a kerb side table. This Amendment is supported, as it will enable a significant civic development to proceed. With this design, the Victorian Pride Centre is a welcome addition to Fitzroy Street. It will kick-start the regeneration of this precinct and stimulate many favourable social and economic activities in the community.

24 If my local council is spending resources to plan a commercial enterprise which will be used to facilitate the implementation of an ideology around sexual identity (or else is naive enough to think that is not the purpose), then I am utterly against it, as the ideology itself is only narrowly beneficial, but in my opinion, broadly problematic. If members of my council believe in the ideology represented by the 'Pride Centre', fair enough. But we need a clear separation of church from state, so to speak, and the commercial backing of an ideology by government crosses every church-state boundary I can fathom, and is therefore a breach of community trust in broad representation. I also do not support a raising of the flag, especially at the heights proposed, because the symbolic meaning represented by the flag and its height would not have a 'positive social benefit'. Elevating the status of one group over others (which is what the elevated flag clearly means) on the basis of group identity is inherently problematic, socially and psychologically, partly because there is no defensible basis for particular group identification. At best, the raising of a flag might improve the emotions (feelings of acceptance, etc) of some individuals who identify with the ideology represented by the flag or who identify with terms contained within 'LGBTIQ'. Maybe we'll also get even better arts and culture, which seems to correlate with alternative sexual identification and progressive ideology. That'd be a great outcome. Hopefully it helps all LGBTIQ in all sorts of ways, and helps the broader community in all sorts of ways. But that all needs to be balanced by the impact of elevating one group over others, government backing of commercial endeavours with ideological motivation, and raising flags

NO.	SUBMISSION
	<p>(metaphorically and literally) for particular interest groups. All of those things have consequences, and it is very hard for me to imagine the pros outweighing the cons, and it is especially concerning that such potential cons do not seem to be appropriately weighed up, with any reference for the broad psychological and historical literature on social changes, ideologies, state support of group identities, etc. I therefore do not support Council's proposal to amend C149.</p>
25	<p>This amendment and development is problematic in that it changes the nature of that public land into a commercial space which could create loss of our fundamental residential amenities that we have now. We ask that our amenity and relationship to our immediate area be protected.</p> <p>The proposed development is too large both in bulk and height. A five story development with so much bulk and height flanking the road to the rear of Jackson Street is unreasonable and unfair. (the original artist impression was four stories) Literally a few feet from residents doors.</p> <p>Jackson Street is a narrow one way street in a dense residential area of homes and apartments. The feel of our immediate area will change from residential to a dark street flanked by a high wall creating a feeling of claustrophobia and loss of sunlight. Where we live at the end of Enfield street it is elevated up the hill so that the 5 story height of the building will be an eye sore and block much of the sky. In short it will be oppressive and ugly.</p> <p>This will set precedent for the rest of Jackson St. The front of the development flanks a large roadway on Fitzroy Street that would not be affected in the same way as a small residential street like Jackson Street.</p> <p>What happens when public land (Public use zone 6) becomes commercial (Commercial 1 zone), does this also set a precedent for the rest of Jackson Street for more large scale commercial developments flanking Jackson Street and consequently possibly replacing existing residential buildings in the near future?</p> <p>The size of the roof top is very worrying in its closeness to residential buildings. Functions and other commercial activities as well as large gatherings on the roof top could be a nightmare for the surrounding neighbourhood. The emission of noise which is often intensified due to echoing and amplification due to building structures in this area needs to be considered .</p> <p>We are terribly worried about loud gatherings and music emanating from the roof top area and also from within the building if it is not adequately sound proofed - severely impacting the existing residential amenity.</p> <p>The only way to prevent this is that the roof top area not be used for functions but for quiet relaxation.</p> <p>Parking is scarce for locals at the best of times, for example a family of 2 Adults with toddlers in Enfield Street rely on street parking in Enfield St or Jackson Street.</p> <p>Jackson Street is one way due to the limited size of the Street. Our fear they it becomes a two way street would further compromise the lack of parking. The increase of traffic generated on Jackson street should be considered. Jackson Street is reliant on the car spaces along the street, the existing carpark on the corner of Jackson St and these should remain as they are.</p> <p>We are supportive of a LGBTQ community centre but not at the expense of existing local residential amenity.</p> <p>So we hope that the prevention of residential amenity loss will be taken very seriously and factored into all elements of the use and design of this building.</p>
26	<p>We fully support the Victoria Pride Centre and believe this centre will support equality, health and the well being of the LGBTIQ community here in Victoria. This centre is a fantastic step toward embracing all of Melbourne's diverse landscape.</p>
27	<p>Iconic buildings are rare This proposed structure brings that to St Kilda & further cements St Kilda as a place to see & visit with a street portico this is further enhanced with a street vibrancy often seen in Europe and desired by many cities. I, my associates and friends would use enjoy and enhance our enjoyment of the St Kilda precinct.</p>
28	<p>As a local resident and an out gay man of 35 years. It is with great pride that this building will be built in the Port Phillip local of St Kilda. It will bring GLBTI community from near and far, it will help build and heal the past, current and the future. It will help build bridges from the past to the current. It will help put focus on supporting the GLBTI community for positive change now and for ever. I also applaud the design as a standout icon to be, help build Fitzroy Street to new growth and prospects for business and the community at large. I therefore would like to support the building design of it coming over the footpath so as all can be touched by the past, present and future for all the GLBTI people of Victoria, Australia and the World.</p>

NO.	SUBMISSION
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29 As residents of Enfield Street, St Kilda we would like to document the following objections in the change to the development of the Pride Centre scheduled for building in Fitzroy Street St Kilda, backing onto Jackson Street that affects the amenity of the residential area for us as residents. We are not opposed to a pride centre, however the council needs to respect that there are residents living here and residents are the ones who work hard to pay their rates, and developments such as this that have such a big impact on the area must be done in harmony to assure their amenity is not compromised.

Height/ Visual Bulk of the development at 3/77 Fitzroy Street, St Kilda

The height of the development was originally sketched as being four storeys- which is the maximum height (107 Fitzroy Street) of any other building along Fitzroy street in that block.

We oppose the addition of yet another storey onto the pride centre which will make the building far too large and imposing for the location and will cause it to dominate the skyline blocking the light from Fitzroy street into the back of Jackson and Enfield Street. We do not understand how such a large and overbearing building design can be passed for such a small block / location.

It is far too large a development for this site and will look ridiculous next to the single storey building on the corner of Jackson and Fitzroy street, and the heritage Victorian building on the other side of it.

2. Loss of parking for visitors to the area and residents

We oppose the amendment application to change this from Public Land to Commercial. This location is a hotspot already for visitors and tourists visiting St Kilda and when the centre opens it will be a beacon and a destination for many, many more. Getting rid of the car park on the corner of Jackson St will make this influx of traffic unbearable during the busy times for the residents- especially in our street Enfield St which already deals with people driving up and down it searching for parking even though we have a no thru road sign clearly visible. It also affects resident parking and parking for friends and family when visiting residents of Jackson and Enfield Streets who do not have their own off-street parking- they rely on this carpark.

3. Increased Noise

Noise is one of the most serious issues we deal with on a daily basis in our area and we are warranted to worry that this new centre with its significant outdoor entertaining areas will be a major additional contributor to the noise levels particularly in the warmer months when many people will be located there. As we all in this area back onto the shops and businesses of Fitzroy street, it is **imperative** there is some space between shops/ community centres and residential houses to define commercial/ residential- and this will be broken if the centre is allowed to be built on the current parking block bringing the noise one block closer to all the residents as well as the associated traffic noise.

4. Existing Heritage peppercorn trees

The plans say existing trees will stay- and the three heritage peppercorn trees on the parking lot block constitute these. We worry any development / interference with their roots will cause detrimental consequences for these beautiful trees.

5. Rainbow painted on Jackson Street

This is a residential street just happening to be closely located to the pride centre - so we are not sure why this entitles it to be painted as a rainbow? It is a residential zone and as residents in this area we are required to deal with all the festivals, parades etc that already occur and which we understand are part of the vibe and the character of the area- however painting a road to be a rainbow makes the area look like a theme park and this clearly has not been discussed with residents.

This suburb and area was once one of the most stylish in Melbourne, and we feel the council is selling it short with the cheap, tacky ideas it is foisting on the area with no consultation with residents. There is one pride march per year which everyone respects – however that is not enough of a reason to emblazon the immediate area with all things rainbow.

We support this pride centre - but it has to fit in with the community. It can't be the catalyst for completely changing the focus of the area.

30 I support the proposed amendment. The Pride Centre is a wonderful contribution to our community.

31 This amendment will enable the timely construction of the Victorian Pride Centre. Such a community hub is long overdue and much needed in the wake of the marriage equality plebiscite that saw many LGBTIQ+ people vilified and made to feel like second class citizens. Many community groups such as people of Jewish faith or particular ethnic groups have hubs/centres for the communities. This centre is no different. This centre for me personally will provide a community and meeting space where I can access resources and support services in a safe and inclusive environment.

NO.	SUBMISSION
32	<p>As a long-term near-neighbour of the proposed pride centre and an LGBTI person active in the community, I am concerned at the demise of diverse cultural activity, community engagement and social connectivity around the Fitzroy Street precinct for LGBTI people. The pride centre will turn this demise around and create important and vital opportunities, culturally and socially, for local and visiting LGBTI people. The highly limited hours of operation of licensed areas currently allowed for does nothing to promote the development of a diverse cultural presence in an area known for day and night time social activity. I strongly support the addition of a street portico because it will provide a welcoming and secure public entry to what will be a safe home for the LGBTIQ community. The portico will complete the iconic nature of the building and add to the sense of Fitzroy Street as a premier destination boulevard for all of the community.</p>

APPENDIX 4

OVERVIEW OF SUBMISSIONS

There were 32 written submission received. A symbol indicates that the issue was specifically mentioned in the submission.

SUBMISSION	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	
OVERALL VIEW																																	
Supports		✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓				✓	✓			✓	✓	✓		✓	✓	✓	22
Supports conditionally	*		*						*						*				*	*					*				*				8
Opposes																					X			X									2
BUILDING DESIGN AND BUILT FORM																																	
The design of the building				✓				✓		✓			✓								X		✓					✓					7
Building height and bulk			X					✓													X		✓		X				X				6
Setbacks, interface and shadow impacts						✓															X				X				X				4
The portico	X						✓	✓						*					X			✓					✓	✓				✓	9
The mast or flagpole																								X									1
TRAFFIC AND CARPARKING																																	
Traffic impacts										✓					*						X				*				X				5
Number of spaces														*							X								X				3
Availability and access										*															*				X				3

SUBMISSION	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32							
AMENITY IMPACTS FROM BEHAVIOR AND NOISE																																							
Safety at the carpark entrance and plaza																		*																1					
Noise			x																		x					x								x	4				
Liquor licensing			*																		x					*									x	4			
Behaviour																																			x	1			
RETENTION AND PROTECTION OF EXISTING TREES																																							
Retain the peppercorn trees																																				x	2		
OTHER ISSUES																																							
Economic and social impacts																																						x	10
Rezoning the carpark land to C1Z																																						x	2
Use of Council funds to support the VPC																																						x	2
Painting Jackson Street																																						x	2

APPENDIX 5

SUGGESTED REVISED INCORPORATED DOCUMENT

INCORPORATED DOCUMENT

VICTORIAN PRIDE CENTRE

DRAFT REVISIONS BY INDEPENDENT ADVISOR

21 August 2018

This document is an incorporated document in the Port Phillip Planning Scheme pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*

1.0 INTRODUCTION

This document is an incorporated document in the Port Phillip Planning Scheme (the planning scheme) and is made pursuant to section 6(2)(j) of the Planning and Environment Act 1987.

The land identified in Clause 3.0 of this document may be used and developed in accordance with the specific controls and conditions contained in Clause 4.0 of this document.

The controls in this document prevail over any contrary or inconsistent provision in the planning scheme.

2.0 PURPOSE

The purpose of this incorporated document is to allow the use and development of the land for the purposes of the Victoria Pride Centre (the project), a mixed-use community and commercial facility.

3.0 LAND

The controls in this document apply to the following land (the land):

- 3/77 Fitzroy Street, St Kilda described as Lot 2 on LP132961
- 79-81 Fitzroy Street, St Kilda described as Lot 1 on TP345977L
- Crown Land adjacent to 79-81 Fitzroy Street, St Kilda

4.0 CONTROL

4.1 EXEMPTION FROM PLANNING SCHEME REQUIREMENTS

Despite any provision to the contrary or any inconsistent provision in the planning scheme, no planning permit is required for and no provision in the planning scheme operates to prohibit, restrict or regulate the use and development of the land for the purposes of the project.

The land may be used and developed for the project subject to the conditions in Clause 4.3 and generally in accordance with the Development Plans that form part of this incorporated document.

The project includes the following use and development:

- demolition of existing buildings.
- consolidation of the land.
- creation of an easement
- construction of a multi-storey community and commercial building including an accessible rooftop and a basement, to be used for offices, shops, food and drink premises, radio station, medical centre, place of assembly (excluding a nightclub), reading room, gallery and the sale and consumption of liquor.
- on-site car and bicycle parking.
- building services and amenities including store areas, toilets, change facilities and kitchens.

- environmentally sustainable design facilities including solar panels and rainwater tanks.
- display of direction, promotion and business identification signs.

4.2 DEVELOPMENT PLANS

The Development Plans that form part of this incorporated document are:

Add description

4.3 CONDITIONS

The use and development of the land must be undertaken in accordance with the conditions set out in this incorporated document and in conformity with the Endorsed Plans.

Plans to be endorsed

1. Before any buildings or works begin on the land (excluding demolition and site preparation) plans must be submitted to and approved by the responsible authority. The plans must be generally in accordance with the Development Plans, but may be modified as necessary to achieve conformity with:
 - the Arborist Assessment approved under condition 5
 - the Sustainable Management Plan approved under condition 6
 - the Traffic Impact Assessment approved under condition 7
 - The Green Travel Plan approved under condition 8
 - any Crime Prevention Through Environmental Design assessment prepared by the responsible authority
 - the Waste Management Plan approved under condition 9
 - any Acoustic Report or Noise and Amenity Action Plan requirements approved under conditions 22 and 24.

The plans must be drawn to scale with dimension and show details of:

- the proposed buildings and works
- all existing trees required to be retained
- all proposed signage.
- the fencing provided around the rear ground floor sunken courtyard
- the loading and unloading facilities
- any other matter required by the responsible authority.

Three copies of the plans must be provided to and endorsed by the responsible authority.

These plans are the Endorsed Plans referred to in this incorporated document.

The responsible authority may amend the Endorsed Plans from time to time, provided the requirements of this condition continue to be met to the satisfaction of the responsible authority.

Use and development

2. The use and development must be constructed and operated in accordance with the Endorsed Plans.
3. Any activity conducted on the land must not include a use prohibited by the provisions of the Commercial 1 Zone.

External materials and finishes

4. Before any buildings or works begin on the land (excluding demolition and site preparation), a schedule and sample panel of all external materials and finishes, showing materials, colours and finishes, roof and glazing treatment, must be submitted to and approved by the responsible authority. All external materials and finishes used in the project must be consistent with the approved schedule of external materials and finishes.

Retention of specified trees

5. Before any buildings or works begin on the land (excluding demolition and site preparation), an Arborist Assessment must be submitted to and approved by the responsible authority. The Arborist Assessment must specify the existing trees on and immediately adjacent to the site proposed for retention and how they will be retained, protected during construction and maintained in good health once the project is completed. The Arborist Assessment must be prepared by a qualified landscape architect or arborist. The recommendations of the approved Arborist Assessment must be implemented to the satisfaction of the responsible authority.

Consider inclusion of a condition to ensure replacement of trees specified for retention if they need to be removed. See recommendation 9

Sustainable Management Plan

6. Before any buildings or works begin on the land (excluding demolition and site preparation), a Sustainable Management Plan outlining the sustainable design initiatives to be implemented must be submitted to and approved by the responsible authority. The recommendations of the approved Sustainable Management Plan must be implemented to the satisfaction of the responsible authority.

Traffic impact and parking

7. Before any buildings or works begin on the land (excluding demolition and site preparation), a Traffic Impact Assessment including a car parking and traffic engineering design assessment for the project must be prepared by a suitably qualified professional and submitted to and approved by the responsible authority. The Traffic Impact Assessment must include all development and ongoing uses on the site and the access and loading arrangements to be implemented. The recommendations and actions of the

approved Traffic Impact Assessment must be implemented to the satisfaction of the responsible authority.

8. Before the use commences a Green Travel Plan must be prepared and approved by the responsible authority. The recommendations and actions of the approved Green Travel Plan must be implemented to the satisfaction of the responsible authority. **See recommendation 3**

Waste management

9. Before any buildings or works begin on the land (excluding demolition and site preparation), a Waste Management Plan must be prepared by a Waste Management Engineer or Waste Management Planner and submitted to and approved by the responsible authority. The Waste Management Plan must conform with the City of Port Phillip *Waste Management Plan Guidelines for Developments* and include:

- the land use type
- the estimated garbage and recycling volumes for the project
- bin quantity, size and colour
- the garbage and recycling equipment to be used
- the collection frequency
- the location and space allocated to the garbage and recycling bin storage area and collection point
- the waste services collection point for vehicles
- the waste collection provider
- scaled waste management drawings
- signage to be provided.

Waste collection must not take place before 10am on any day.

The Waste Management Plan must be implemented to the satisfaction of the responsible authority.

Amenity, noise and the sale and consumption of liquor

10. All external lighting must be baffled to ensure no adverse impact on abutting or adjacent properties to the satisfaction of the responsible authority.
11. All external building elevations, fixtures and works must be maintained in good condition at all times in accordance with the schedule of external materials and finishes approved under condition 4.
12. The amenity of the area must not be detrimentally affected by the use or development of the land, including through the:

- transport of materials, goods or commodities to or from the land
- appearance of any building, works or materials
- emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, water, waste products, grit or oil
- presence of vermin.

13. Except with the prior written consent of the responsible authority, the use of outdoor areas (except the Fitzroy Street footpath) must cease after 10pm. All doors, windows and openable areas to outdoor areas must be closed after 10pm. **When can they open again?**

14. Before the use commences a mechanical exhaust system must be constructed to any kitchen in accordance with Australian Standard AS1668 and to the satisfaction of the responsible authority. Prior to the commencement of the use a report prepared by a suitably qualified professional demonstrating that the requirements of this condition have been complied with must be submitted to the satisfaction of the responsible authority.

15. The exhaust system to any kitchen must provide for a vertical discharge to the atmosphere at a point and velocity that allows for effective dispersal of fumes so as to not create a nuisance (as defined in the *Public Health and Wellbeing Act 2008*) to the surrounding amenity to the satisfaction of the responsible authority.

16. Without the prior written consent of the responsible authority the sale, storage and consumption of liquor and patron access must be restricted to the designated red line area as shown on the Development Plans. Any sale or consumption of liquor must only occur during the following hours:

- Ground floor 10am – 1am the following day
- Level 2 indoor function space 10am – 1am the following day
- Level 2 outdoor function space 10am – 10pm
- Roof top 10am – 10pm

17. Without the prior written consent of the responsible authority and the relevant liquor licensing authority, patron numbers at a function or while uses that include the sale and consumption of liquor are operating must not exceed:

- Ground floor 90
- Level 2 function space 140
- **Is this total for level 2 or is one (indoor or outdoor) missing?**
- Roof top 100

18. The operator of any use or activity must ensure that any employee engaged in the service of alcohol has undertaken a *Responsible Serving of Alcohol* course. This condition probably duplicates requirements of the license and if so should be deleted.
19. Before the use commences signs must be erected near any entrance and exit and in the toilets requesting that patrons leave the building in a quiet and orderly manner so as not to disturb the peace and quiet of the neighbourhood, to the satisfaction of the responsible authority.
20. Noise levels must not exceed the permissible noise levels specified in State Environment Protection Policy N-1 (*Control of Noise from Industrial Commercial and Trade Premises within the Melbourne Metropolitan Area*) and State Environment Protection Policy N-2 (*Control of Music Noise from Public Premises*) to the satisfaction of the responsible authority.
21. Before the use commences the operator must install and maintain a noise limiter (the Device), set at a level by a qualified acoustic engineer, to ensure the escape of amplified music does not exceed the requirements of State Environment Protection Policy N-2 (*Control of Music Noise from Public Premises*) to the satisfaction of the responsible authority.
22. Before the use commences a report prepared by a suitably qualified acoustic consultant must be submitted to and approved by the responsible authority. The report must confirm that the Device is operating and has all of the following characteristics:
- The Device limits internal noise levels so as to ensure compliance with the music noise limits according to *State Environment Protection Policy N-2 (Control of Music Noise from Public Premises)*;
 - the Device is a limiter suitable for interfacing with a Permanently Installed Sound System which will include any amplification equipment and loudspeakers;
 - the Device monitors noise levels at frequencies between 50Hz and 100Hz and is wired so as to ensure that the limiter governs all power points potentially accessible for amplification;
 - the Device controls are in a locked metal case that is not accessible by personnel other than a qualified acoustic engineer or technician nominated by the owner of the land and notified to the Responsible Authority;
 - the Device is installed to control all amplification equipment and associated loudspeakers;
 - the Device is set in such a way that the power to the amplification equipment is disconnected for 15 seconds if the sound level generated by the amplification equipment exceeds for one second the maximum sound level for which the monitor is set;
 - the monitor level component of the Device includes a calibratable frequency discriminating sound analyser with an internal microphone incorporated in its own tamper-proof enclosure (beyond the normal reach of a person). Such a

sound analyser will indicate by green, amber and red illuminated halogen lamps the approach and exceeding of the set maximum noise level. The lamps must be in the clear view of the staff and any disc jockey in the room;

- the Device must prevent a relevant noise level referred to in these conditions being exceeded.

23. Without the prior written consent of the responsible authority, live music performances in outdoor spaces must be limited to an acoustic format with no percussive instruments and must not exceed the requirements of *State Environment Protection Policy N-2 (Control of Music Noise from Public Premises)*.

24. Before the use commences a Noise and Amenity Action Plan must be prepared and approved by the responsible authority. The Noise and Amenity Action Plan must :

- Identify all noise sources associated with the licensed premise (including, but not limited to, music noise, external areas allocated for smokers, queuing lines, entries and exits to the premises).
- Specify the hours of operation for all parts of the premises.
- Specify the design details to ensure that ground level patrons at the rear are confined within the boundaries of the site.
- Provide details of the provision of music including the frequency and hours of entertainment provided by live bands and DJs.
- Identify noise sensitive areas including residential uses and accommodation in close proximity to the licensed premise.
- Specify measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures, including but not limited to:
 - the measures to be taken by management and staff to ensure patrons depart the premises and the surrounding area in an orderly manner
 - the measures to be taken by management and staff to ensure that patrons queue to enter the premises in an orderly manner and maintain satisfactory clearance for other pedestrians on the footpath.
- Provide details of staffing arrangements including numbers and working hours of all security staff.
- Specify the standard procedures to be undertaken by staff in the event of a complaint by a member of the public, the Victoria Police, an authorised officer of the responsible authority or an officer of the liquor licensing authority.
- Provide a telephone number provided for residents to contact the premises and linked to the complaints register;
- Specify the arrangements for maintenance of a complaints register, which must, on reasonable request, be made available for inspection by the responsible authority.
- Specify the location of lighting within the boundaries of the site, security lighting outside the licensed premise and any overspill of lighting.

- Provide details of any measures to work with neighbours or other residents in the immediate area to address complaints and general operational issues.
- Specify any other measures to be undertaken to ensure minimal amenity impacts from the licensed premise.
- Specify the location and operation of noise generating facilities such as air-conditioning, exhaust fan systems, security alarms and the like.

The actions and recommendations of the approved Noise and Amenity Action Plan must be implemented to the satisfaction of the responsible authority.

25. A bottle crusher located within the premises must be used for the disposal of bottles and waste glass. Except with the prior written consent of the responsible authority disposal of the crushed glass outside of the premises must only take place between:

- 8am and 10pm Monday to Saturday
- 10am and 10pm Sunday.

Easement

26. A creation of easement plan for the proposed carriageway easement between the land and Jackson Street must be prepared by a licensed surveyor in accordance with the provisions of the Subdivision Act 1988, to the satisfaction of the responsible authority.

Consolidation of land

27. A plan of consolidation showing the consolidation of land at 3/77 Fitzroy Street, St Kilda (described as Lot 2 on LP132961) and land at 79-81 Fitzroy Street, St Kilda (described as Lot 1 on TP345977L) must be prepared by a licensed surveyor in accordance with the provisions of the Subdivision Act 1988, to the satisfaction of the responsible authority.

Crown Land

28. The owner of the land must seek a tenure authorisation under the Land Act 1958 from the relevant road manager or an appropriate road reserve license under the Road Management Act **date** from VicRoads for any building projections over Crown Land (adjacent to 79-81 Fitzroy Street). That authorisation must indemnify the City of Port Phillip, the Department of Environment, Land, Water and Planning and VicRoads (as appropriate) against any claim regarding the projections. Should the owner of the property seek to commence works prior to the issue of this authorisation, the owner must first enter into a legal agreement under Section 173 of the *Planning and Environment Act 1987*, that specifies the liability for claims relating to or arising from those parts of the development projecting into airspace or sub-soil of land under the care and management of the City of Port Phillip. The owner of the subject land must pay all reasonable legal costs and expenses of the City of Port Phillip for the agreement, including preparation, execution and registration on title.

29. Before any buildings or works begin on the land (excluding demolition and site preparation) the owner of the land must enter into an agreement with the City of Port Phillip pursuant to Section 173 of the *Planning and Environment Act 1987* about any projection over Fitzroy Street. The agreement must provide:

- Liability and maintenance of those parts of the development projecting into the air-space or sub-soil of land under the care and management of the City of Port Phillip, including provision of an indemnity and comprehensive insurance cover against damage and injury resulting from the erection and use of the projection, to the satisfaction of City of Port Phillip.
- Payment of a lump sum license premium (payable at the outset rather than an annual fee) in respect to the Projections.
- A disclaimer of any right or intention to make or cause to be made at any time any claim or application relating to adverse possession of the land occupied by the Projections.
- The owner of the land must pay all of the City of Port Phillip's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.
- All projections over the street alignment must be drained to a legal point of discharge in accordance with the development plans and specifications approved by the City of Port Phillip.

Draft conditions 28 and 29 are subject to further refinement to address these issues and such other terms that City of Port Phillip or DELWP may require as appropriate.

Vehicle crossings

30. Before the project is occupied, vehicle crossings must be constructed in accordance with the current *Vehicle Crossing Guidelines* of the City of Port Phillip and standard drawings to the satisfaction of the responsible authority. All redundant crossings must be removed and the footpath, naturestrip, kerb and road reinstated as necessary at the cost of the applicant or owner to the satisfaction of the responsible authority.

31. Before the project is occupied the applicant or owner must, to the satisfaction of the responsible authority:

- pay the costs of all necessary alteration and reinstatement works to Council and public authority assets required by the Council or public authority
- obtain the prior written approval of the Council or other relevant authority for any necessary alteration or reinstatement works
- comply with any conditions required by the Council or other relevant authority.

Windows to adjoining land

32. The owner of the land must enter into an agreement with the City of Port Phillip pursuant to Section 173 of the *Planning and Environment Act 1987* if the development

includes windows or openings to any adjoining boundary. The agreement must provide for the:

- protection of the adjoining building
- removal of the windows or building openings or services if necessary if or when the adjoining property is further developed.

General conditions

33. Once the development has commenced it must be continued and completed to the satisfaction of the responsible authority.
34. Provision must be made to the satisfaction of the responsible authority for:
 - a time limit on publicly available car spaces in the basement carpark
 - electronic signage that indicates parking availability in the basement car park, located so as to be visible before a user enters the carpark.
See recommendations 4 and 5.
35. Parking areas and access ways must be kept available for those purposes at all times.
36. The open section of land at ground level in the south-west corner of the site must be maintained by the relevant Owners' Corporation to the satisfaction of the responsible authority.

Expiry

37. The specific controls contained in this incorporated document expire if any of the following circumstances apply:
 - The development is not commenced by 30 June 2021
 - The development is not completed by 30 June 2025
 - The use of the land for the project is not commenced within two years of the completion of the development.

The responsible authority may extend these periods if a request is made in writing before these controls expire or within six months afterwards.

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