



12.2

**PRIDE CENTRE PLANNING PROCESS**

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**1. PURPOSE**

- 1.1 To consider a request for an amendment to the Port Phillip Planning Scheme to include a site-specific provision that would enable the development of the Pride Centre in Fitzroy Street, St Kilda, following community engagement.

**2. EXECUTIVE SUMMARY**

- 2.1 The Board of the Victorian Pride Centre (VPC) has asked Council to initiate a request to the Minister for Planning to amend the Port Phillip Planning Scheme via Section 20(4) of the *Planning and Environment Act 1987*, following community engagement.
- 2.2 The request for a streamlined amendment process has been made to allow the VPC to meet milestones related to the release of project funding and to deliver the project by the scheduled opening in November / December 2020.
- 2.3 The request seeks a site-specific control that approves the Victorian Pride Centre development through an Incorporated Document (plans and associated conditions), and rezones a portion of the site from 'Public Purpose' to a 'Commercial 1' zone.
- 2.4 A site-specific control is required as the proposed development would not meet the mandatory street-wall and building height requirements of the Design and Development Overlay 6 (DDO6) at Clause 43.02 of the planning scheme.
- 2.5 The proposed planning process includes community engagement to seek feedback on the proposed amendment / development plans, and the appointment of an independent advisor to review submissions and provide recommendations to Council.
- 2.6 Council's endorsement is sought for the amendment process. A final decision on whether to support the amendment content (including development plans and conditions forming an Incorporated Document within the planning scheme), will be further considered by Council following community consultation on the proposal, and the recommendations from the independent advisor.



### 3. RECOMMENDATION

That Council:

- 3.1 Notes the Board of the Victorian Pride Centre (VPC) has asked Council to initiate a request to the Minister for Planning to amend the Port Phillip Planning Scheme via Section 20(4) of the Planning and Environment Act 1987, following community engagement, as the VPC will be a significant civic and community facility and of State significance for the LGBTIQI community and the community more generally.
- 3.2 Supports the VPC's request and writes to the Minister for Planning to advise of Council's intent to request a section 20(4) planning scheme amendment process to facilitate the development of the Pride Centre, St Kilda, following, and subject to outcomes of a robust community engagement process. The proposed Amendment C149 would comprise the rezoning of land at Lot 3/77 Fitzroy Street, St Kilda to a Commercial 1 Zone and use of a site-specific control via Clause 52.03 to include an Incorporated Document in the planning scheme comprising a Development Plan with associated conditions.
- 3.3 Requests the Minister for Planning to appoint an independent planning advisor to review submissions to the proposed Amendment C149 (including the Development Plan and conditions) received from the community and to provide a report and recommendation to Council.
- 3.4 Considers all submissions received, as well as the report and recommendations of the independent advisor, prior to determining whether to formally request the Minister to undertake Amendment C149 noting that it may require changes to the Incorporated Document (including the proposed Development Plan and Conditions) in response to issues raised in submissions and the recommendations of the independent advisor.
- 3.5 Endorses a community engagement approach to provide feedback on proposed Amendment C149 (including the Development Plan and Conditions) for the Pride Centre development, including:
  - 3.5.1 The launch of a 'Have Your Say' Council webpage designed to receive community input from the 2 July - 3 August 2018.
  - 3.5.2 Display of the proposed Amendment C149 (including the Development Plan and Conditions), at Council town halls, libraries and on the Council website.
  - 3.5.3 Community information sessions, including with adjacent residents and traders.
  - 3.5.4 Notification to residents, traders and property owners that may be directly affected by the proposed use and development of the site.
  - 3.5.5 Building broader community and stakeholder awareness through, notices in Port Phillip Leader and St Kilda News, and signage on the site.
  - 3.5.6 Targeted engagement with key stakeholder and interested parties, including the Fitzroy Street Business Association.
- 3.6 Notes that draft conditions are to be finalised and included in the draft Incorporated Document prior to community engagement, to address the following matters:



- 3.6.1 Identify the specific uses in proposed multi-purpose function spaces and place of assembly.
- 3.6.2 The retention of existing trees on the site and adjacent to the site (including within the public realm and adjoining properties).
- 3.6.3 The use of and access to proposed outdoor areas, designated licensed areas and function spaces (including but not limited to hours of operation, patron numbers and the management of noise and amenity impacts) This would include a recommendation for an acoustic report to be prepared to the satisfaction of the Responsible Authority.
- 3.6.4 Details of proposed signage and advertising.
- 3.6.5 Details of the fencing proposed to the rear sunken courtyard, and the proposed treatment to the north facing boundary wall.
- 3.7 Authorises the Chief Executive Officer (or delegate) to finalise the draft Amendment C149 (including development plans and conditions) documentation generally in accordance with the draft Incorporated Document included as Attachment 3, prior to community engagement.

#### 4. KEY POINTS/ISSUES

##### Background

- 4.1 In April 2016, the Victorian Government announced \$15 million had been allocated to establish the Victorian Pride Centre (VPC), a new hub for the LGBTIQ community.
- 4.2 Following a competitive selection process in March 2017, the Victorian Government, and Council announced Fitzroy Street, St Kilda as the future home of the VPC.
- 4.3 Council's \$13 million investment (land contribution) is expected to deliver significant social and economic benefits to the Fitzroy Street precinct.
- 4.4 In order to achieve what may be an iconic new building, a design competition was undertaken by the VPC and the Royal Australian Institute of Architects.
- 4.5 The winning design requires an amendment to the Port Phillip Planning Scheme, as it does not meet all the mandatory requirements of Design and Development Overlay 6 (DDO6). A planning permit cannot be issued on this basis.
- 4.6 An amendment would also be required to rezone the property at Lot 3/77 Fitzroy Street to a Commercial 1 Zone, from the current Public Use Zone (PUZ6) reflecting its existing use as a Council owned car park.
- 4.7 The VPC has requested that Council, following community engagement, initiate a section 20(4) amendment request to the Minister for Planning to enable timely consideration of the VPC proposal (refer Attachment 2).



- 4.8 The correspondence from VPC highlights the desire for a planning process that can meet milestones related to the release of funding for the Pride Centre, and to deliver the project by the scheduled opening in November / December 2020. It also recognises the project as one of state significance.

#### **Proposed Development and Use**

- 4.9 The proposed development of the Pride Centre would comprise demolition of existing buildings and construction of a commercial / civic building which includes office space (for community organisations and co-worker spaces), community meeting spaces, medical consulting suites, retail floorspace, function spaces, associated amenities and building services (including on-site vehicle and bicycle parking and the retention of existing public car parking spaces).

#### **Preliminary Assessment of Proposal**

- 4.10 A detailed planning assessment (Attachment 4) of the use and development proposal has been undertaken by Council's statutory planning unit (with advice from city strategy, sustainability, city design, transport safety engineering and Council's heritage advisor).
- 4.11 A traffic impact assessment, is currently being prepared for the proposed development. Preliminary comments provided by the VPC's consultant engineers note there are no traffic engineering grounds as to why a permit for the development should not be granted. The report will be made available during the consultation period for community comment.
- 4.12 As discussed previously in this report, the proposal is noncompliant with the mandatory planning scheme controls including:
- Components of the building (excluding the mast) reach a maximum height of approximately 21 metres. This exceeds the mandatory height control of 16.5 metres.
  - Parts of the building at 12.5 metres high, would exceed the 10.5 metre mandatory height control for a building within 10 metres of the Fitzroy Street frontage.
- 4.13 Despite areas of non-compliance, the proposal has significant merit, as it provides a mixed-use development consistent with State and Local Policy objectives relating to high quality design, positive social and economic benefits, and a commitment to an ecologically sustainable development outcome.
- 4.14 Council's urban design advisor (Attachment 5) notes the proposal is a high quality contemporary response to the street, clearly distinct from the existing fabric of Fitzroy Street and highlighting its function as an important centre for the LGBTIQ community.
- 4.15 It states that elements within the proposal, exceed height requirements within existing controls, however the additional height will have minimal visual impact from surrounding streets or views.
- 4.16 Within this assessment it identifies the portico as inconsistent with the established street wall and awning configuration along Fitzroy Street. The VPC has indicated this as an integral element within the design, suggesting that it reinforces the building as a



landmark and that the terrace will improve the amenity of Fitzroy Street. Both approaches may be considered to provide an appropriate response to the street. This is an aspect within the design that Council may seek to consider community comment on during the consultation period.

4.17 The assessment also notes that there are additional conditions that should be further considered for inclusion in the Incorporated Document, addressing the:

- use of the proposed multi-purpose and place of assembly areas;
- noise and amenity of the designated licensed areas, the proposed café and function centre uses and the proposed outdoor areas;
- retention and management of trees on and adjacent to the site;
- detail of proposed signage and advertising; and
- detail of the treatment to the fencing to the rear sunken courtyard and of the treatment to the proposed north facing boundary wall.

It is proposed that draft conditions addressing these matters are finalised and included in the draft Incorporated Document, prior to community engagement.

4.18 The development provides a unique opportunity to create a modern landmark building, which would complement other landmarks along Fitzroy Street such as The George and The Prince of Wales Hotels.

4.19 There will be an opportunity to further assess the proposal following the community engagement process and any submissions received.

#### **Proposed Amendment C149 to the Planning Scheme**

4.20 Given that the proposal is not compliant with the mandatory street-wall and building height requirements of DDO6, an amendment to the planning scheme would be required to enable the Pride Centre development to proceed.

4.21 An amendment would also be required to rezone the property at Lot 3/77 Fitzroy Street to a Commercial 1 Zone, from the current Public Use zone (PUZ6) reflecting its existing use as a Council owned car park.

4.22 The request seeks to include a site-specific control via Clause 52.03 (Specific Sites and Exclusions) to allow for a development proposal which exceeds the street-wall and building height provisions for Fitzroy Street specified in Clause 43.02 (DDO6) of the Port Phillip Planning Scheme. Clause 52.03 would introduce an Incorporated Document in the planning scheme which operates in a similar manner to a planning permit and achieves certainty over the form and use of the development.



- 4.23 The Schedule to Clause 52.03 would specify the address of the subject land and reference to the associated Incorporated Document in the planning scheme which sets out the specific manner in which the site can be developed.
- 4.24 The Incorporated Document would include development plans and associated use/development conditions (i.e. that typically form the basis of a planning permit). The schedule to Clause 81.01 (Table of Documents Incorporated) would be updated to reference the new Incorporated Document titled '*Victorian Pride Centre*'. The Draft Incorporated Document is provided at Attachment 3.

### **Proposed Amendment Process**

- 4.25 The VPC has requested that Council initiate a section 20(4) amendment request to the Minister for Planning to enable timely consideration of the VPC proposal, following community engagement.
- 4.26 Section 20(4) of the *Planning and Environment Act 1987*, enables the Minister to amend a planning scheme having exempted himself from the standard notification / public exhibition process.
- 4.27 This process is typically used for projects of 'State Significance' (such as the Victorian Pride Centre) and where non-statutory consultation has been undertaken to ensure the views of key stakeholders are known and have been considered.
- 4.28 Details of the proposed process are as follows (refer Attachment 6):
- 4.28.1 Council would agree 'in principle' at this point to pursue a section 20(4) amendment request to the Minister for Planning, who would be the Planning Authority for the amendment.
  - 4.28.2 While the engagement process would not involve full statutory exhibition of the amendment and review by a full independent Planning Panel, a genuine consultation process with the local community and other stakeholders would be undertaken. This would include the opportunity for persons/groups to make written submissions to the amendment / development plans.
  - 4.28.3 An independent advisor would be appointed by the Minister (at Council's request), to receive and review submissions. It is anticipated that the Minister would appoint an independent planning expert from the existing members of Planning Panels Victoria. The independent advisor would make recommendations in a report provided to Council, prior to Council deciding whether to formally request the Minister to amend the planning scheme.
  - 4.28.4 The independent advisor's role is similar to that of an independent Planning Panel in the context of a fully exhibited amendment.
  - 4.28.5 Council would make an initial submission to the independent advisor, during the community engagement phase. This submission would consider community



views expressed through the 'drop-in' sessions proposed to be held during the first 2 weeks of the consultation period.

- 4.28.6 Council could subsequently make changes to the proposed amendment, including the draft 'Incorporated Document' (plans and conditions) in response to submissions made by the community and the recommendations of the independent advisor. This would occur when Council makes a final decision on requesting the Minister to undertake the planning scheme amendment.
- 4.28.7 The report of the independent advisor would be made publicly available and be provided to the Minister, together with the amendment request. Council would outline its reasons if any of the recommendations in the report are not accepted.
- 4.29 The proposed process varies from the standard Planning Scheme Amendment process which allows for submissions to an exhibited Amendment to be considered by an independent panel before a final decision is made by the Minister for Planning. However, the inclusion of an independent advisor to consider submissions means the proposed process provides for a similar independent review.
- 4.30 The proposed Amendment C149 would approve the development and use of the site, removing the need for a separate planning permit.
- 4.31 The proposed process provides for extensive community engagement to provide feedback on the amendment and design of the Pride Centre. The Development Plan and conditions that ultimately will form part of the Incorporated Document in the Planning Scheme, will provide certainty for all stakeholders regarding the use and development outcomes for the site.

### **Proposed Community Engagement**

- 4.32 A communications and engagement plan has been prepared. The engagement approach will:
- 4.32.1 Provide the community with information on the proposed planning approach, and how and when they can provide feedback on the proposal.
- 4.32.2 Provide a genuine opportunity for the community to provide feedback to the amendment (including development plans and associated conditions), which may be altered in response to issues raised.
- 4.32.3 Provide the Victorian Pride Centre with the opportunity to build community and stakeholder understanding of their proposed vision for the site.

### **Proposed Engagement Activities**

- 4.33 From 2 July 2018, it is proposed that Council, in partnership with VPC, will commence community engagement through a 'Have Your Say' online engagement platform. All submissions received would be provided directly to the independent advisor.



- 4.34 Targeted engagements will be conducted with identified community and special interest groups, Fitzroy Street Business Association and direct engagement with Jackson Street, and adjacent residents.
- 4.35 The engagement process would run for four (4) weeks, and would be followed by a review of submissions by the independent advisor appointed by the Minister.
- 4.36 Council would lodge a submission to this process taking in to consideration community views expressed at 'drop-in' sessions and any other consultation events held during the first 2 weeks of the consultation period.
- 4.37 Given the timeframes for this process, Council would not be able to consider all submissions from the community prior to making its own submission. However, the drop-in sessions will be designed to seek feedback that will inform and allow Council to have a reasonable understanding of the community's views of the proposal.
- 4.38 Council will have an opportunity to refine its position in the context of all the views of the community when it decides whether to endorse the amendment / development plans following receipt of the independent advisor's recommendations. This provides an opportunity for Council to make changes to the amendment (including development plans and associated conditions) to consider the views of the community, prior to formally requesting that the Minister amend the planning scheme.

### Options

4.39 The following options are available to Council:

- **Option 1:** Agree in principle for Council to initiate a request to the Minister for Planning to undertake a section 20(4) amendment to include an Incorporated Document allowing for the development of the Pride Centre, following a robust community engagement process.

This is the recommended option as it offers the following benefits:

- Council leads the engagement process, providing Council with control over how the community are consulted. Under this option Council can ensure there is a genuine opportunity for the community to provide feedback on the proposed amendment (including the development plans and conditions).
  - It provides Council with an opportunity to request changes to the amendment (including development plans and conditions) in response to the issues raised by the community, prior to formally requesting the Minister approve the amendment.
  - It offers an expedited process that could facilitate the planning approval of the Pride Centre, St Kilda within the timeframes sought.
- **Option 2:** Direct the Victorian Pride Centre to request the Minister for Planning undertake a 20(4) Amendment, following community engagement.

This is an alternate option which would be appropriate if Council would prefer that the Minister for Planning initiate the amendment process, including community engagement.

This option could also facilitate the planning approval for the Pride Centre development within the timeframes sought.



Under this option Council would not be asking the Minister to bypass a formal public exhibition and independent panel review process with its community (although it will be asked if it supports this). The Victorian Pride Centre and Minister would be responsible for facilitating any community engagement process.

Given that Council would not be the decision-maker in this process, although the Minister will formally seek its views, there is greater risk that the Minister may approve a development proposal that Council has not fully supported.

## **5. CONSULTATION AND STAKEHOLDERS**

- 5.1 The Pride Centre development is a project of state significance and is likely to generate significant public interest. The community engagement process summarised in this report recommends consultation in a way that will respond to the public interest and provide a genuine opportunity for the local community to express their views on the proposed design and use of the Pride Centre.
- 5.2 The VPC have expressed their willingness to partner in the consultation and stakeholder process outlined above to ensure any matters raised during this period are provided with due consideration. This will build on existing public information that has been provided by the VPC to date.
- 5.3 The Victorian Government through the Department of Environment, Land, Water and Planning have been consulted and are supportive of the proposed planning and community engagement approach.

## **LEGAL AND RISK IMPLICATIONS**

- 5.4 Undertaking a robust community engagement process to ensure community awareness of the proposed process to provide input, will minimise the risk of pursuing a Ministerial amendment process which would not include formal public exhibition.
- 5.5 The appointment of an independent advisor to review submissions provides an additional level of probity and advice to Council and the Minister in considering the merits of the proposal.

## **6. FINANCIAL IMPACT**

- 6.1 Council has committed a \$13 million investment to support establishment of the VPC in St Kilda. In turn this project is expected to deliver significant economic benefits to the Fitzroy Street Precinct, through the provision of a new hub for the LGBTIQ community.
- 6.2 As outlined earlier in the report, any significant delays in this project may impact the VPC in relation to project funding.
- 6.3 Costs associated with the engagement process will be met by Council through existing budget allocations, together with support from VPC.



## 7. ENVIRONMENTAL IMPACT

- 7.1 Council's Sustainable Design Officer has provided comment and input into the design to achieve the best possible sustainability outcomes. VPC are working towards making the Pride Centre an exemplar of sustainable design, but further detail will be required regarding the proposal's ESD credentials.

## 8. COMMUNITY IMPACT

- 8.1 The VPC project aligns strongly with the Council's commitment to diversity, and is a clear demonstration of its commitment to the wellbeing of the LGBTIQ community.

## 9. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 9.1 A four-year priority initiative of the *Council Plan 2017-27* under Strategic Direction 1: 'we embrace difference, and people belong' is to establish the Pride Centre in St Kilda.

## 10. IMPLEMENTATION STRATEGY

### 10.1 TIMELINE

10.2 Subject to Council resolution, next steps include:

- June:
- Request the Minister for Planning appoint an independent advisor
  - Appointment of an independent advisor
  - Commence direct notification, project information and distribution of communication materials
- July:
- Commence 4-week community consultation
  - Launch of a 'Have Your Say' Council webpage to receive community input from the 2 July - 3 August 2018
  - Display of the proposed Amendment C149 (including the Development Plans and Conditions), at Council town halls, libraries and the Council website.
  - Community information sessions including with adjacent residents and traders.
  - Notification to residents, traders and property owners that may be directly affected by the proposed use and development of the site.
  - Building broader community and stakeholder awareness through notices in Port Phillip Leader, St Kilda News and signage on site.
  - Targeted engagement with key stakeholders and interested parties, including the Fitzroy Street Business Association.
  - Council to provide an initial submission to the independent advisor that considers community views expressed through the 'drop-in' sessions.



- August: - Receipt of independent advisor's report and recommendations.
- September: - Consider submissions received, and recommendations from the independent advisor.
- Council to decide whether to endorse the amendment (including development plans and conditions), and request the Ministers approval.

### Key Messages

10.3 Key messages during the consultation period will include:

- 10.3.1 The establishment of a Pride Centre in Fitzroy Street, St Kilda, aligns with Council's commitment to celebrate diversity within our community.
- 10.3.2 Council is committed to a genuine and robust consultation process to enable the community to provide feedback on the proposed use and design / development of the Victorian Pride Centre. This process includes the appointment of an independent advisor to review submissions, providing an additional level of consideration and advice to Council and the Minister for Planning regarding the merits of the proposal.
- 10.3.3 Prior to deciding whether to endorse the amendment and development plans, Council will consider all feedback and advice received, and will then decide whether to request changes to the amendment and associated development plans.
- 10.3.4 If Council decides to endorse the amendment and development plans, it will then make a request to the Minister for Planning to approve the planning scheme amendment.

## 11. OFFICER DIRECT OR INDIRECT INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in the matter.

### **TRIM FILE NO: ATTACHMENTS**

**66/27/09**

- 1. Site Location**
- 2. Letter of Request from Victorian Pride Centre**
- 3. Draft Incorporated Document & Development Plans**
- 4. Statutory Planning Assessment**
- 5. Urban Design Assessment**
- 6. Proposed Planning Process**