



**6.2** **MILLS STREET TRAM STOP (NO 135)**

**LOCATION/ADDRESS:** **MILLS STREET BETWEEN RICHARDSON AND PAGE STREETS, MIDDLE PARK**

**EXECUTIVE MEMBER:** **LILI ROSIC, ACTING GENERAL MANAGER, PLACE STRATEGY AND DEVELOPMENT**

**PREPARED BY:** **PHILLIP BEARD, PRINCIPAL PLANNER**

**1. PURPOSE**

To consider and determine an application for planning permit for works associated with a re-designed tram stop in Mills Street and associated works in Page Street, Middle Park. The buildings and works which trigger the need for a planning permit are:

- Alterations and realignments to existing kerbs and footpaths in a Heritage Overlay,
- Changes to the levels of the road pavement.
- The installation of the tram shelters.

**2. EXECUTIVE SUMMARY**

<b>WARD:</b>	Lake
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	More than 15 objections
<b>APPLICATION NO:</b>	234/2018
<b>APPLICANT:</b>	Public Transport Victoria
<b>EXISTING USE:</b>	N/A
<b>ABUTTING USES:</b>	Residential and school/kindergarten
<b>ZONING:</b>	Part Neighbourhood Residential 1, part Commercial 1
<b>OVERLAYS:</b>	HO 444, SBO 2
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Expired

2.1 The application proposes to construct tramway works principally comprising raising the road pavement (constructing new sections of raised road at the tram stop in the block between Neville and Page Streets) together with constructing new kerb extensions on both sides of Page Street (where the footpath would effectively be made wider); constructing two new tram passenger shelters, also in the block between Page and Neville Streets, and creating new line marking.



- 2.2 It is proposed to alter and extend existing kerbing in Page Street so as to create six new car parking spaces in that street. The works would also involve removing several street trees.
- 2.3 The tree removal and any change in the number of kerbside car parking spaces resulting from the alterations to the kerbing are not matters subject to planning control. Accordingly, the only matters assessed are whether any of the works outlined above – especially constructing the new kerbing, removing the existing kerbing, altering the road and footpath profile and the impact of the new tram patron shelters would have negative heritage impacts as determined by the Heritage Overlay or any inappropriate impacts on the overland flow paths of storm-water as relevant to the Special Building Overlay.
- 2.4 The report summarises those matters and concludes that there would not be any negative heritage or adverse impact on overland storm-water flow.
- 2.5 Support of the proposal is therefore recommended.

### **3. RECOMMENDATION**

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit
- 3.2 That a Notice of Decision to Grant a Permit be issued for construction of a new raised platform tram stop, two associated shelters and associated tramway works (removal of existing kerbing and installing altered new kerbing and footpaths) in Mills and Page Streets between Richardson and Page Streets, Middle Park.
- 3.3 That the decision be issued as follows:

#### **Amended Plans**

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans forming part of the application but modified to show the following:
  - a) The proposed 'Stop' sign at the intersection of Page and Mills Streets to remain as 'Give Way'.
  - b) The footpaths adjacent to and in front of Nos. 128 and 131 (kindergarten) Page Street where intersecting with Mills Street shown as maintaining the existing straight footpath line as opposed to depicting two respective kinks or direction changes.

Once approved, these plans become the endorsed plans under this permit.



**No Layout Change**

2. The works and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

**External treatment of shelters**

3. All external materials and finishes of the permitted shelters are to be to the satisfaction of the responsible authority and must not be altered without the written consent of the Responsible Authority.

**No Advertising**

4. No advertising signage is to be placed on the shelters without the written consent or permission of the Responsible Authority.

**Time Limits**

5. This permit will expire if one of the following circumstances applies:
  - (a) The development is not started within 1 year of the date of this permit.
  - (b) The development is not completed within 1 year of the date of commencement.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

• **Permit Notes**

- This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
- The applicant/owner would provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.
- The developer shall show due care in the development of the proposed works so as to ensure that no damage is incurred to any adjoining properties.
- Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council's Local Laws Section:
  - Monday to Friday: 7.00am to 6.00pm; or
  - Saturdays: 9.00am to 3.00pm.

An after hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.



#### 4. RELEVANT BACKGROUND

- 4.1 Amendment GC68 was approved in August, 2017 and introduced an Incorporated Document into the Planning Scheme. This document specifies sections of streets throughout the Melbourne metropolitan area where the upgrade of tram stops is exempt from needing planning permission. However, Mills Street is not one of these sections of streets identified in the Incorporated Document exempt from needing a planning permit, whilst the Carlisle Street tram stop, for instance is included.

#### 5. PROPOSAL

- 5.1 It is proposed to raise the road pavement either side of the existing tram lines in the section of Mills Street between Page and Neville Streets. The sections in question would measure approximately 33m long and 3.3m wide. They would be raised so as to be flush in height to the adjacent footpaths which would be widened (on each side) by just over 2m.
- 5.2 It is also proposed to construct two new tram shelters, one on each side of the stop. The shelters would be located immediately behind what is the existing kerbline. The shelters would be 2.6m high and 1.7m wide. No advertising signs are proposed, but a small tram time/route number electronic screen is proposed on the outer sections of each of the stops' roofs.
- 5.3 The proposal also comprises alterations to the existing kerbing in Mills and Page Streets. This would involve extending the kerb outwards by approximately 2m in the vicinity of each section of raised road pavement together with sections leading to and following from each raised section of road. These sections of extended kerb would therefore be approximately between 50m and 60m long. There would also be other sections of kerb extensions mainly on the outer flares of the corners of Mills and Page Streets and Mills and Neville Streets.
- 5.4 Kerb alterations are also proposed in Page Street in the section of that street between approximately 15m and 50m away from (north-west) of Mills Street. Those alterations would affect the existing kerbside car parking indentations and would increase the number of car parking spaces available in that location. As previously noted a change in on street numbers is not a planning consideration in this application and does not form part of this assessment.
- 5.5 A small new traffic island at the intersection of Mills and Richardson Street is also proposed whilst the adjacent school crossing would be retained, and a new extended kerb is also proposed in that location on the school side of Mills Street.
- 5.6 New line larking is also proposed and would comprise chevron style 'hatched' markings both at either approach end of the tram lines and immediately before/after the raised pavements, again in the centre of the road on the tram lines.



**6. SUBJECT SITE AND SURROUNDS**

Site area	N/A
Existing site conditions.	<p>The subject land comprises a section of Mills Street which is just over 170m long between Page and Richardson Streets. The road pavement is approximately 18m wide and includes parallel car parking along most of both sides together with tram lines in the centre of the road. The overall road reserve is approximately 30m wide. There is also an existing school crossing located approximately 40m from Richardson Street.</p> <p>Works are also proposed in Page Street which has an overall reserve width of approximately 30m wide with pavement generally 18m wide, including the indented car parking areas and approximately 6.5m wide excluding them. The existing car parking in the subject section of Page Street comprises right-angle parking located in a series of indented bays.</p> <p>There are also several well established street trees in both Mills and Page Streets.</p> <p>Surrounding uses mainly comprise the Middle Park Primary School and kindergarten on the south-east side of Mills Street together with residential land use on the north-west side. The school/kindergarten buildings are mostly set back from the street by approximately 15m, with some intervening shade cloth structures within portion of that setback. Some newer buildings towards Page Street are closer to the street at approximately 4m setback.</p> <p>The buildings opposite are mostly single storey Victorian and Edwardian dwellings setback generally 1.5m to 2m to the street. Development in Page Street is very similar to that in Mills Street. The Page Street reserve is characterised by its indented parking bays and its well established street trees.</p>

**7. PERMIT TRIGGERS**

The following zone and overlay controls apply to the site, with planning permission required as described.

Zone or Overlay	Why is a permit required?
Clause 32.09 Neighbourhood Residential Zone	'Tramway' is a section 1 use (no permit required use) and therefore, any buildings and works associated with it do not require permission.



	<p>There is no 'buildings and works' requirement in the zone.</p> <p>(NOTE: The only aspect of the project affecting the Commercial 1 zone is line marking, which does NOT need planning approval).</p>
<p>Clause 43.01 Heritage Overlay</p>	<p>A permit is required for 'roadworks' in a Heritage Overlay if it is not undertaken to same materials and specifications as the exiting road. These types of works are exempt from public notification processes.</p> <p>In this instance, a conservative approach has been taken and it is considered that "roadworks" is best described as repairing or fixing a road pavement.</p> <p>As the changes to kerb and road surface are considered 'works' ancillary to the tramway rather than repair or maintenance of a road, it has been considered planning permission is required.</p> <p>Further, the proposed new tram shelters are buildings, and all buildings in a Heritage Overlay require planning permission.</p> <p>A permit is required to remove vegetation only if the tree is identified in the schedule to the Heritage Overlay, which is not the case in this instance.</p> <p>Council's Local Laws section has confirmed that they would have no involvement in relation to tree removal as they only issue permits for tree removal on private land. No Local Law permission is required in this instance.</p>
<p>Clause 44.05 Special Building Overlay</p>	<p>A permit is required to carry out works and to construct a building which may result in change to the overland flow of flood water. None of the specified exemptions from planning permission apply in this instance and therefore a planning permit is required.</p>

## 8. PLANNING SCHEME PROVISIONS

### 8.1 Local Planning Policy Framework (LPPF)

The following State Planning Policies are relevant to this application:

Clause 21.05-1 Heritage

Clause 21.05-2 Urban Structure and Character



Clause 21.06-3 Neighbourhoods (Albert Park/Middle Park)

Clause 22.04 Heritage Policy

**8.2 Other Relevant Clauses**

Clause 43.01 Heritage Overlay

Clause 44.05 Special Building Overlay

**8.3 Relevant Planning Scheme Amendment/s**

There are none relevant to this proposal.

**9. REFERRALS**

**9.1 External referrals.**

The proposal was referred to Transport Victoria and no concerns were raised.

**9.2 Internal referrals.**

Council's Heritage Advisor:

*There are no adverse heritage impact arising from this proposal – the kerbs in both Mills and Page Street have been replaced with concrete and further modified with kerb outstands to create indented parking in Page Street. None of the trees to be removed are significant within the area. There is already an example of a side-access tram stop in Danks Street within the HO444 precinct, and this will have a similar design.*

Council's Traffic Engineer:

The referral to Council's Traffic Engineer elicited technical queries and comments mostly relating to specific ramp design details (widths, lengths), potential bollard installation, impacts on waste collection to nearby properties, and commented that some aspects of the design such as line marking/arrows and some kerb extensions and outstands did not require approval. Some of the proposed kerb re-alignments were not supported.

The permit applicants were made aware of these comments and detailed communication directly between the applicant and Council's Traffic engineer took place in order to resolve and clarify as many of the issues as possible. Those communications concluded with the issues being resolved, as per the comments below.

*From a traffic perspective, we support the Easy Access Stop.*

*Below are the items we would like PTV to include/consider as part of their scope (perhaps as part of a condition?):*

- *We encourage PTV/Jacobs to build a kerb outstand near 130 Mills Street.*
- *We encourage the kerb outstand near 133 Mills Street to also include the street-tree.*
- *Neville Street's Stop line at Mills Street can be replaced with a Give Way when the EAS is installed.*



*Aspects we do not accept:*

*Changing “Give Way” intersection at Page Street to “STOP”. This should remain “Give way”.*

*We do not support changing the alignment of the footpath on the north side of Page St/Richardson St intersection.*

Planner Comment:

The above comments raise a planning dilemma as they relate to traffic engineering and safety matters which are not specifically triggered by needing a planning permit. However, as the project must be considered in its entirety for completeness, it is considered the comments may be addressed by way of condition on any permit issued (refer recommended conditions 1 (a) and 1 (b)).

Council’s Development Engineer:

This referral raised matters regarding the project’s potential to increase the extent and scope of overland water flows (technically known as ‘afflux’). The applicants were made aware of these issues and several direct discussions between the applicants and Council’s Development Engineer took place specifically to resolve any concerns.

Following those collaborative discussions, the following comments were received.

A. *Notes:*

- *Council has requested for no worsening or increase in water level as a result of the upgrade.*
- *The design has been modified to lower the existing tracks and boarding areas with a Flood Impact Assessment conducted showing reduced/minimised flooding afflux.*

B. *Referral responses:*

- *There are no objections to the proposed new works.*

There are no matters to address by way of condition.

## **10. PUBLIC NOTIFICATION/OBJECTIONS**

- 10.1 The proposal was advertised by way of Council giving notice by ordinary mail to the owners and occupiers of surrounding properties (46 notices sent) and by three public notices for a minimum 14 day period, in accordance with s.52 of the *Planning and Environment Act 1987*.
- 10.2 A consultation specific to this application did not take place as a public meeting where all objectors and the applicant were invited, took place on 28 May at the Middle Park Primary School.
- 10.3 There have been 27 objections received together with a petition of 96 signatures and one letter of support. The concerns are summarised as follows:
  - Better locations area available, this upgrade is not justified. No available data has been provided to justify it.



- Loss of kerbside car parking, consequent traffic congestion and reduction in traffic/pedestrian safety compared to current situation.
- Flood/SBO impacts. The area is prone to flooding, the project would make this worse by increasing hard surfaces and no upgrade in existing pipes.
- Inappropriate visual and heritage impact/out of keeping with the area's heritage character due to loss of trees and grass, excessive line marking and the introduction of a 'standard' template for the tram stop design.
- Loss of passing trade/negative commercial impacts.
- Restricted service/garbage/delivery vehicle access.
- Potential reduction in property values.

10.4 The matters raised by these objections are discussed in the following section of this report.

10.5 It is considered that the objections do not raise any matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987.

## 11. OFFICER'S ASSESSMENT

### 11.1 Key Issues:

As has been previously noted, this report can only assess the potential impact on the overland water flow as triggered by the Special Building Overlay and heritage impacts assessed against the provisions of the Heritage Overlay. There are no other permit triggers.

- Would there be unreasonable heritage impacts (including from tree removal), either on the location's streetscape or heritage character or in any other way?
- Would there be any adverse impacts affecting overland flood water flows (SBO)?
- Are there valid alternative locations for the proposal?
- What are the impacts for kerbside car parking; traffic/pedestrian safety and traffic congestion?
- Would there be negative impacts on property values, delivery vehicle access or on local traders?

An assessment of these matters follows using the relevant local policy and Planning Scheme provisions. In terms of local policy, assessment of many of the above matters is guided by Clauses, 21.05-1, 21.05-2, 21.06-3 and 22.04. The Planning Scheme provisions further used in the following assessment are Clauses 43.01 and 44.05.



## 11.2 Heritage impacts:

It is not considered that there would be any negative implications. From a built form standpoint, the only elements of relevance are the two new tram patron shelters. In the context of the scale and mass of surrounding built form, they are considered appropriately modest and a common feature of heritage areas through the city of Melbourne. They are not excessive in height and would not contain advertising signs and would only be modestly lit.

In terms of Clause 21.05-1 (Heritage), the following assessment is made, where the policy is relevant to this proposal. Aspects of this policy that are not relevant are numbered but not quoted.

Objectives.

1. *To conserve and enhance the architectural and cultural heritage of Port Phillip.*

2. ...

Extracts from Clause 21.05-2 Urban Structure and Character.

Objectives.

1. *To reinforce key elements of the City's overall urban Structure.*

2. *To protect and enhance the varied, distinctive and valued character of neighbourhoods across Port Phillip.*

3. *To ensure that the height and scale of new development is appropriate to the identified preferred character of an area.*

4. *To retain Port Phillip's fine grain street pattern*

5. *To maintain significant trees and vegetation as a key element of Port Phillip's character.*

6. ...

7. *To protect streetscape characteristics of the established residential areas.*

8. ...

9. *To ensure new development minimises any detrimental impacts on neighbouring properties.*

There would be no negative amenity impacts from the shelters with regards to amenity in terms of bulk, shadow, mass, overlooking, loss of daylight or height. The shelters would not have any direct residential abutments and the residential interfaces would be confined to an interface from the public realm (Mills Street) and to the front yards and fences of adjacent properties.

The shelters would be clearly located in the road reserve and would not read as part of any existing heritage element. They would clearly be contemporary structures and would not attempt to reference any nearby heritage features. They would be clearly distinguishable as a new element.

At just over 2.5m high and a footprint of only 7m<sup>2</sup>, with clear sides and rears and open fronts, it is not considered that they would result in negative heritage outcomes and they would not detrimentally affect the above-mentioned key streetscape characteristics of Mills Street. This conclusion is reinforced with reference to the



many contemporary tram stop shelters evident throughout the city of Melbourne which have no negative impact on their environment..

In relation to point 5 above, the following is noted. Whilst the proposed tree removal is not a planning matter, advice from Council's Local Law section has been received indicating that they would have no involvement and not issue any permits (if needed) in this instance. Local Law tree removal permits are only issued on private land.

By way of additional information, the applicant has clarified that only two nature strip trees are to be removed in Page Street and these are not 'significant' trees. The only trees to be removed in Mills Street are not in the footpath/nature strip, but are only those in the road pavement itself, between the various car spaces and indented parking bays. Those trees are also not defined as 'significant'.

The proposal is also assessed under the provisions of Clauses 22.04 (Heritage Policy) and 43.01 (Heritage Overlay). The relevant provisions of those clauses are below. As with Clause 21.05-1, the sections/objectives that are not relevant are listed but the words are not quoted.

#### Clause 22.04

##### *Objectives*

- ☐ To retain and conserve all significant and contributory heritage places.*
- ☐ To promote design excellence (in terms of building siting, scale, massing, articulation and materials) which clearly and positively supports the heritage significance of all Heritage Overlay areas.*
- ☐ To ensure that new development and any publicly visible additions and/or alterations in or to a heritage place maintains the significance of the heritage place and employs a contextual design approach.*
- ☐ To encourage development, in particular use of materials, that responds to the historic character of laneways and to minimise elements that adversely impact on that character.*

There are also policy outcomes that should be achieved for 'new development' on private property within heritage areas. These policies primarily relate to the construction of new dwellings/buildings on heritage sites rather than tram stop shelters within a road reserve. However, those outcomes are listed below for completeness.

##### *New Development.*

##### *It is policy that:*

- ☐ New development maintains and enhances an existing vista to the principal facade(s) of the heritage place, where a new development is adjacent to a heritage place (see Performance Measure 2).*
- ☐ New development generally reflects the prevailing streetscape scale and does not dominate the streetscape or public realm.*

These would be achieved. The shelters would not obscure any heritage features and are much smaller and lower than the prevailing scale in Mills Street.

- ☐ Roofs respond to any predominant roof form characteristic of the streetscape..*



The shelters would be roofed, but at approximately 2.5m in height and gently sloping, it is considered that this design would not lead to any adverse heritage impact in the road scape of which they would form part.

□ *Materials, textures and finishes complement those evident in the streetscape.*

□ *Colour schemes complement the appearance and character of the streetscape.*

These are again considered to relate to buildings in the more common understanding in heritage terms.

#### Heritage Overlay

The Decision Guidelines to be taken account of are as follows, again noting that the elements requiring permission are confined to the shelters, re-aligned kerbing and footpath and the raising of the road surface.

- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*

This has been previously discussed and it is considered that there would be no negative heritage impacts from the proposed works.

- *Any applicable heritage study and any applicable conservation policy.*

The relevant heritage policies have been taken into account.

- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*

The only proposed structures/buildings are the shelters and these would not have any negative heritage impacts on the appearance of the street.

- *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*

No building or element/item of any significance is proposed to be demolished.

Heritage summary.

Given that the line marking, tree removal and any alterations to kerbside car parking (removal or creation of) are not planning matters and cannot be assessed in this report, the only remaining aspects of the proposal that are being assessed are the re-aligned kerbing and associated footpath and nature strip alterations and the raised road surfaces.

From a heritage perspective, it is considered that these works would not have any negative impacts. There are no heritage features that would be impacted upon (bluestone kerbing or other historic structures) that would need to be removed, altered or relocated as a result of the proposal.

Excluding the shelters, works would be at ground level and would not add bulk or mass and would be commensurate with an urban environment.



The altered kerbs in Page Street would not have an unreasonable heritage impact. They would alter existing indented car parking areas and would involve the removal of existing non-significant kerbing and nature strip and introduce new kerbing that would as closely as practical, match the existing kerbing. That is, the existing indented car parking areas and bays would be larger than they currently are whilst the adjacent nature strips would become correspondingly smaller. This would not result in detrimental heritage outcomes.

11.3 Would there be any adverse impacts affecting overland flood water flows?

Council's Development Engineer raises no concerns. Both the applicant and the Council's Engineer have acknowledged that the works would have some potential impacts on overland water flow in that the flood modelling shows the possibility of flow afflux (water level) increasing by 10mm to 40mm.

As with assessing any planning application, one of the overall and relevant matters is whether the extent of any change would be reasonable and acceptable, not whether there would be any change at all. In this instance, there is some evidence that the overall area in question is currently prone to some standing water after sustained rain. This too was acknowledged by Council's Design Engineer.

On balance, the planning assessment can only reasonably be guided by advice from the relevant experts. Their comments resulting from previous discussions and meetings, have indicated that the ideal outcome would be that the risk or potential of increased flooding impacts remain as is. The Council's Design Engineer has acknowledged that this would not be the case, but has additionally indicated that the extent of proposed works would have what would be the most practically achievable and minimized flood/water flow impacts.

That is, there would be some potential for change in water flow impacts, but the extent of change is considered limited and within tolerance levels.

11.4 Are there valid alternative locations for the proposal?

Whilst not a planning matter, the applicant has indicated that PTV assessed alternative nearby locations (before and outside the planning process) against a wide range of criteria. The other locations did not adequately meet the PTV criteria and therefore, the location as submitted was chosen. In any case, Council can only assess the application as submitted.

11.5 What are the impacts for kerbside car parking; traffic/pedestrian safety and traffic congestion?

These matters cannot be assessed as part of this application as any alteration in car parking numbers does not need planning approval and the re-alignment of kerbing is only assessed in relation to heritage and the provisions of the SBO (flood water flows).

11.6 Would there be negative impacts on property values, delivery vehicle access or on local traders?

These are not valid planning matters to assess in this instance.



**12. COVENANTS**

12.1 There are no restrictive covenants affecting this proposal.

**13. OFFICER DIRECT OR INDIRECT INTEREST**

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

**14. OPTIONS**

14.1 Approve as recommended

14.2 Approve with changed or additional conditions

14.3 Refuse - on key issues

**15. CONCLUSION**

15.1 This application only involves an assessment of the heritage and Special Building Overlay (overland stormwater flow) aspects of the proposal. Other elements of the overall project as shown on the plans do not trigger any planning approval and therefore cannot be assessed.

15.2 Based on the advice received and for all the reasons expressed in this report, it is considered that the heritage and overland water flow impacts would be reasonable and acceptable and therefore, it is recommended that the planning aspects of the project be supported.

**TRIM FILE NO: P0234/2018**

**ATTACHMENTS**  
**1. Objector Map Mills St Tramstop**  
**2. Attachment 2, advertised plans**