

**Report to the Future Melbourne (Planning) Committee**

**Agenda item 6.2**

**Planning Application TP-2017-943  
Gardiner Reserve, 287-315 Dryburgh Street North Melbourne**

**6 March 2018**

**Presenter:** Evan Counsel, Practice Leader Land Use and Development

**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee of a planning permit application seeking partial demolition and carrying out of works to renew and expand the existing Gardiner Reserve, including Dryburgh Street.
2. The land is located on the western side of Dryburgh Street, with frontages on Macaulay Road and Haines Street (refer Attachment 2 – Locality Plan).
3. The applicant is Melbourne City Council, the owner is the Victorian State Government and the plans have been prepared by Council's City Design Studio.
4. The land is located in the Public Park and Recreation Zone and General Residential Zone and is affected by the Design and Development Overlay Schedule 66 (Hospital Helicopter Flight Path), Heritage Overlay (HO3) and the Special Building Overlay. A planning permit is required for partial demolition and carrying out of works under the Heritage Overlay and the Special Building Overlay.
5. In September 2017, separate from the planning process, the Council's Open Space Planning Team and City Design Studio have undertaken community consultations regarding the expansion and improvement of the park.
6. Formal public notification of the application was carried out from 21 September 2017 until 6 October 2017 as part of the planning application process and a total of two objections have been received.

**Key issues**

7. The key issues when considering this planning application are limited to heritage matters, buildings and works and floodplain management.
8. The applicant commissioned a heritage review to be undertaken during the consultation process. The applicant has considered key contributory attributes and materials of the site and incorporated them into the new design. The proposed works are consistent with similar works already approved and completed at Errol Street Reserve, Hawke and Adderley Street Park, and University Square.
9. Melbourne Water does not object to the proposal subject to all works being consistent with the flood assessment document dated 25 January 2018.
10. The proposal satisfies the objectives and strategies of the local heritage policy and is consistent with relevant state and local policy provisions of the Melbourne Planning Scheme.

**Recommendation from management**

11. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Planning Permit subject to the conditions set out in the delegate report (refer Attachment 4 – Delegate Report).

**Attachments:**

1. Supporting Attachment (page 2 of 15)
2. Locality Plan (page 3 of 15)
3. Selected Plans (page 4 of 15)
4. Delegate Report (page 5 of 15)

## Supporting Attachment

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### Legal

1. Pursuant to section 96(1) of the *Planning and Environment Act 1987* (Act), 'a responsible authority must obtain a permit from the Minister before carrying out any use or development for which a permit is required under the planning scheme for which it is the responsible authority, unless the planning scheme gives an exemption'.
2. Clause 67.01 of the Melbourne Planning Scheme provides an exemption from the provisions of section 96 of the Act for the use and development of land for the purpose of leisure and recreation.
3. Pursuant to Clause 67.02, notice was given in accordance with section 52(1)(c) of the Act to the owners and occupiers of the adjoining land.

### Finance

4. There are no direct financial issues arising from the recommendations contained in this report.

### Conflict of interest

5. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

### Stakeholder consultation

6. Formal public notification of the application was carried out from 21 September 2017 until 6 October 2017, by placing four notices on site and by ordinary mail to surrounding owners and occupiers of adjoining land.

### Relation to Council policy

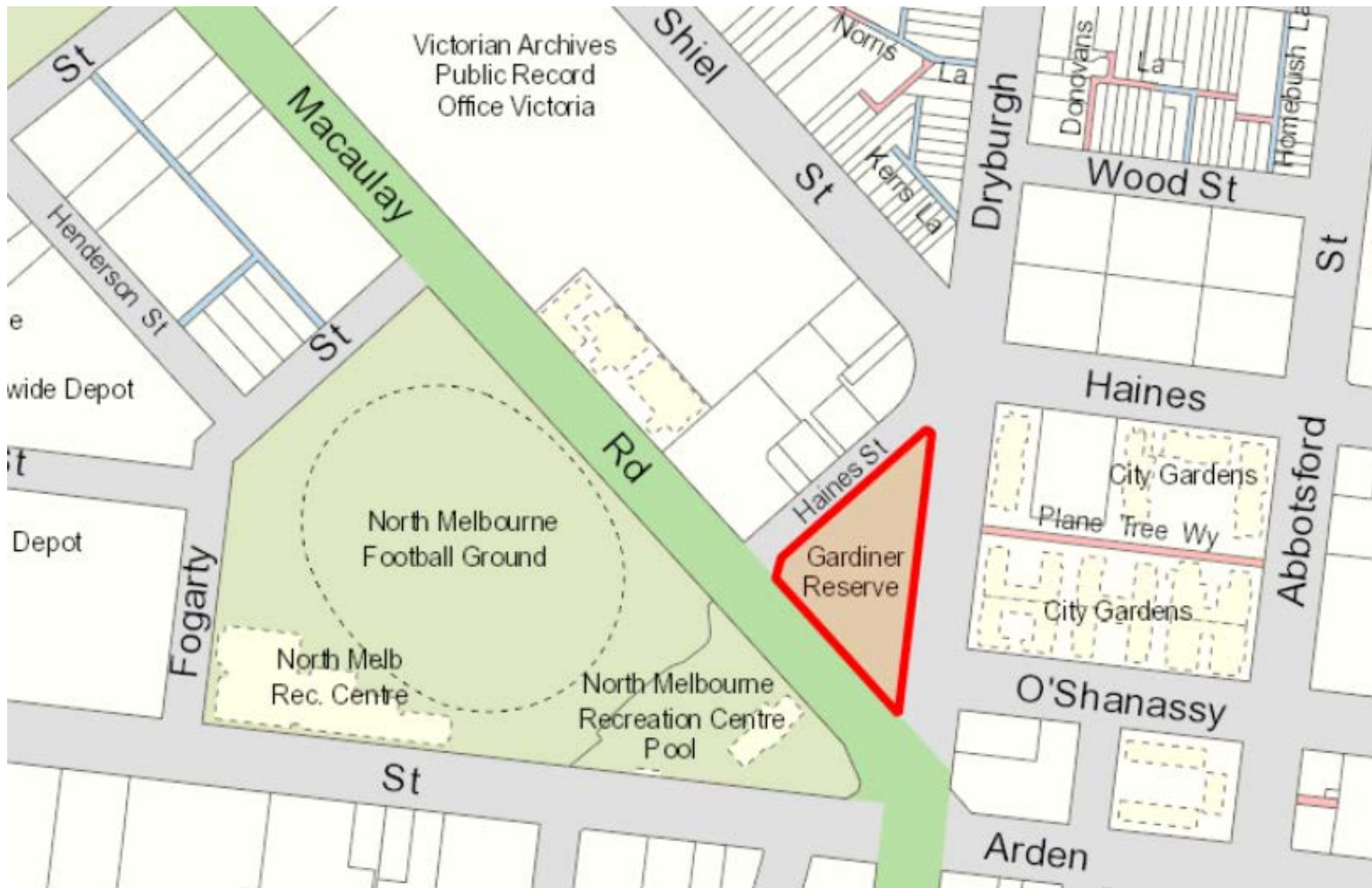
7. Relevant Council policies are discussed in the attached delegate report (refer Attachment 4).

### Environmental sustainability

8. Clause 22.19 Energy, Water and Waste Efficiency of the Melbourne Planning Scheme does not apply to applications for buildings and works for the purpose of leisure and recreation.

# Locality Plan

## Gardiner Reserve 287-315 Dryburgh Street, North Melbourne



**FEATURE NOTES:**

- 01 GRASS OPEN, ACTIVE AREA (INFORMAL USE ONLY)
- 02 FORMER PLAY SPACE AREAS
- 03 BARBECUE & PICNIC AREAS
- 04 BIODIVERSITY FOCUSED PLANTING AREAS
- 05 WSUD INFRASTRUCTURE & ASSOCIATED PLANTING
- 06 TWO DISABLED PARKING BAYS WITHIN DRYBURGH STREET
- 07 NO CHANGE TO TRAFFIC CONFIGURATION ALONG MACAULAY ROAD
- 08 UNDERGROUND SERVICE ACCESS AREA
- 09 KERB EXTENSIONS TO IMPROVE PEDESTRIAN CROSSING POINTS
- 10 KERB EXTENSIONS AND NEW TREE PLANTING TO NORTH OF HAINES STREET
- 11 MAINTENANCE VEHICLE ACCESS FROM DRYBURGH STREET

**LEGEND:**

- GRASS
- ASPHALT FOOTPATH
- OPEN ACTIVE AREA
- PROPOSED PLAY SPACES
- WSUD PLANTINGS
- GRAVEL PAVING
- EXISTING TREES
- NEW TREES



**PARKING INFORMATION**

64 EXISTING CAR PARKING SPACES  
46 PROPOSED CAR PARKING SPACES



**LANDSCAPE PLAN:**

PROJECT GARDINER RESERVE PARK EXPANSION	ASSET OWNER	PASSED -	APPROVED -	DRAWN HAB	DATE 10JAN18	SCALE 1:300	PROJECT NUMBER 903793	DRAWING NUMBER SD-02
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## DELEGATED PLANNING APPLICATION REPORT

<b>Application number:</b>	<b>TP-2017-943</b>
<b>Applicant:</b>	<b>City Of Melbourne</b>
<b>Address:</b>	Gardiner Reserve, 287-315 Dryburgh Street, NORTH MELBOURNE VIC 3051
<b>Proposal:</b>	Partial demolition, buildings and works to renew and expand Gardiner Reserve
<b>Date of application:</b>	14 November 2017
<b>Responsible officer:</b>	Loughlan Curran

### 1 SUBJECT SITE AND SURROUNDS

The site has a total area of 5285.7m<sup>2</sup> and is host to a public park on the land, known as Gardiner Reserve. The land is triangle-like in shape, with street frontages onto Dryburgh Street, Haines Street and Macaulay Road. O'Shannassy Street intersects the Gardiner Reserve to the south east corner.

Dryburgh Street terminates at Macaulay Road, separated by pedestrian footpaths, bollards and street trees. The western section of Dryburgh Street is a one way road travelling in a northern direction, with bluestone kerb and pitches. This street edge is flanked by a row of mature London Plane trees. On street parking is permitted to this western edge.

#### Aerial Photo / Locality Plan



## 2 BACKGROUND AND HISTORY

### 2.1 Pre-application discussions

Pre-application discussions were held with Council planning officers prior to the lodgement of the application. The key area of discussion was heritage.

It has been advised by the applicant (City of Melbourne's City Design and Projects Department) that the following consultations with the community have been undertaken prior to the lodgement of the planning permit application (summarised):

- Community engagement 1-29 September
- Community engagement session 9 September 2017
- Final version of the Gardiner Reserve expansion proposal presented to and adopted by the Future Melbourne Committee on 5 December 2017.

### 2.2 Amendments during assessment process

Following Council's resolution on 5 December 2017, works to Macaulay Road were removed from the scope of works, pending a further request from VicRoads for a physically separated bike lane adjacent to the footpath.

### 2.3 Planning Application History

The following applications, listed as considered relevant to the current proposal, have previously been considered for the subject site and/or adjoining sites:

TP number	Description of Proposal	Decision & Date of Decision
TP-2005-735	Refurbish and upgrade children's playground	Permit – 20 January 2006
TP-2009-205 (Errol Street Reserve)	Partial demolition and works to the road reserve to create a larger area of public open space.	Permit – 31 March 2009

## 3 PROPOSAL

The application seeks approval for partial demolition and to construct and carry out works to renew and expand the existing park.

The proposed works include the extension of the park into the road reserve on Dryburgh Street, increasing the size of the park by 2,830m<sup>2</sup>.

The plans which have been considered in this planning assessment are those submitted by the applicant (City of Melbourne – Urban Sustainability) on 14 November 2017.

The applicant submitted informal plans on 15 January 2017 to remove Macaulay Road works from scope of works following a Council resolution to seek approval from VicRoads beyond the scope of this application.

Details include:

Haines Street

- Relay concrete kerb along the Reserve side as required,
- Provide new advanced street trees and tree pits on the northern side of the street,
- Demolish part of the existing road and kerb alignments,

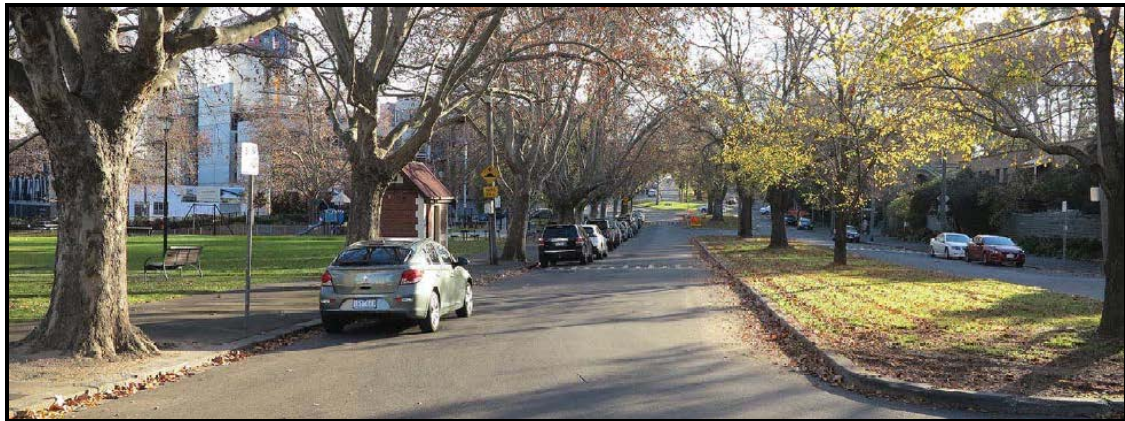
- Provide kerb outstands to reduce pedestrian crossings widths at the northern end with new advanced tree plantings and new turf installation, and
- Re-use existing bluestone.

#### Dryburgh Street

- Demolish north bound carriageway and most of the western kerb and channel,
- Modify existing centre road medians to incorporate into the reserve and plant with a bio-diverse mix of species,
- Install new asphalt footpath path and disabled parking bays within former road alignment,
- Install new WSUD plantings within former road alignment utilising retained sections of kerb stones as the western border,
- Reduce footpath width on the eastern side of Dryburgh Street to allow for two way traffic and parallel parking, and
- Reconstruct kerb and channel to new road width and incorporate existing bluestone, power/light poles and pedestrian crossing points within kerb outstands.

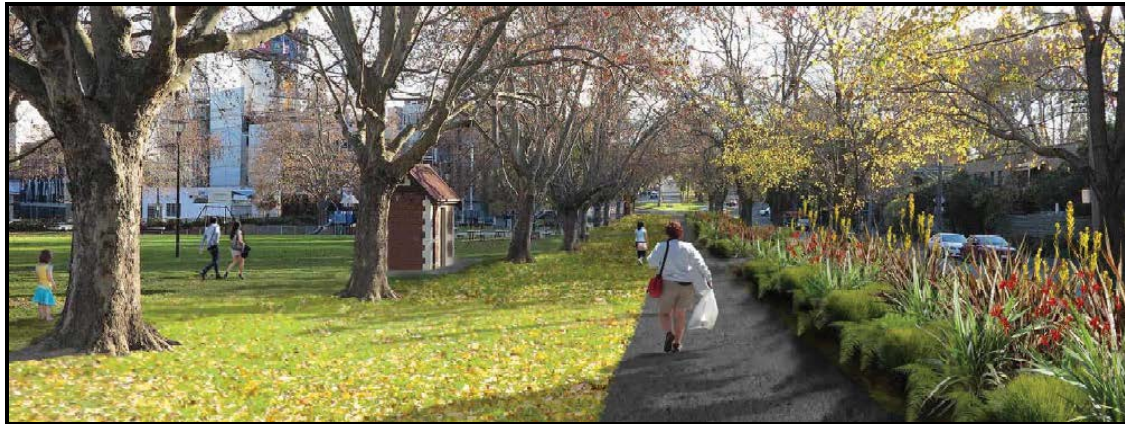
#### Gardiner Reserve

- Demolish existing playground equipment,
- Reconfigure and consolidate play spaces to northern end of Reserve,
- Install new play equipment and features catering for all age groups,
- Install new drainage and augment existing irrigation system,
- Reconfigure BBQ picnic areas to create two distinct picnic areas at the southern end of the Reserve,
- Remove existing concrete paved areas and provide a new permeable surface gathering space and asphalt path between Haines and Dryburgh Streets,
- New park lights, park furniture and signage,
- New mulched garden beds and buffer plantings, and
- New advanced tree plantings.



Existing view looking north on Dryburgh Street.





Proposed view looking north on Dryburgh Street.



#### 4 STATUTORY CONTROLS

The following clauses in the Melbourne Planning Scheme require a planning permit for this proposal:



Clause	Permit Trigger
<p>Clause 36.02 Public Park and Recreation Zone</p>	<p>Pursuant to Clause 36.02, a permit is required to construct a building or construct or carry out works. This does not apply to:</p> <ul style="list-style-type: none"> <li>• Pathways, trails, seating, picnic tables, drinking taps, shelters, barbeques, rubbish bins, security lighting, irrigation, drainage or underground infrastructure</li> <li>• Planting or landscaping</li> <li>• A building or works carried out by or on behalf of a public land manager or Parks Victoria under the Local Government Act 1989, the Reference Areas Act 1978, the National Parks Act 1975, the Fisheries Act 1995, the Wildlife Act 1975, the Forest Act 1958, the Water Industry Act 1994, the Water Act 1989, the Marine Act 1988</li> </ul> <p>City of Melbourne is the public land manager of Gardiner Square. A permit is not required for the works.</p>
<p>Clause 32.08 General Residential Zone</p>	<p>Pursuant to Clause 32.08-6, a permit is not required under the GRZ.</p>
<p>Clause 43.01 Heritage Overlay HO3 - North and West Melbourne area</p>	<p>Pursuant to Clause 43.01, <b>a permit is required</b> to demolish or remove a building or to construct a building or construct or carry out works including roadworks and street furniture, other than:</p> <ul style="list-style-type: none"> <li>• traffic signals, traffic signs, fire hydrants, parking meters, post boxes and seating</li> <li>• speed humps, pedestrian refuges and splitter islands where the existing footpaths or kerb and channel are not altered</li> </ul> <p>Remove, destroy or lop a tree if the schedule to this overlay specifies the heritage place as one where tree controls apply.</p>
<p>Clause 44.05 Special Building Overlay</p>	<p>Pursuant to Clause 44.05, <b>a permit is required</b> to construct a building or construct or carry out works including:</p> <ul style="list-style-type: none"> <li>• Roadworks, if the water flow path is redirected or obstructed</li> <li>• Bicycle pathways and trails</li> <li>• A fence</li> </ul>
<p>Clause 43.02 Design and Development Overlay, Schedule 66 – Hospital Helicopter Flight Path outer area.</p>	<p>Pursuant to Clause 43.02, a permit is required to construct a building or construct or carry out works.</p> <p>A permit is not required to construct a building or to construct or carry out works, including for any construction equipment associated with the buildings and works with a height less than the referral height of the Hospital helicopter landing site as specified in Table 1 – 67.3 metres AHD.</p> <p>All proposed works are at ground level only and are not required to be referred to the Department of Health and Human Services. A permit is not required under the overlay.</p>
<p>Clause 62.02-2 Uses, Buildings, Works, Subdivisions and Demolition not requiring a permit.</p>	<p>Pursuant to Clause 62.02-2 (Buildings and works not requiring a permit unless specifically required by the planning scheme), any requirement in the Scheme relating to the construction of a building or carrying out of works, does not apply to:</p> <ul style="list-style-type: none"> <li>• Roadworks</li> <li>• Street furniture including post boxes, telephone booths, fire</li> </ul>

	<p>hydrants, bus shelters, shade sails, traffic control devices and public toilets</p> <ul style="list-style-type: none"><li>• Park furniture including seating, tables, shelters, rubbish bins, playground equipment, barbeques, shade sails, drinking fountains and public toilets</li></ul> <p>A permit is not required for park furniture.</p>
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## **5 STRATEGIC FRAMEWORK**

### **5.1 State Planning Policy Framework (SPPF)**

The relevant provisions of the SPPF are summarised as follows:

Clause 11.03 - Open Space

Clause 11.04-4 - Liveable communities and neighbourhoods

### **5.2 Local Planning Policy Framework (LPPF)**

#### **5.2.1 Municipal Strategic Statement (MSS)**

The relevant provisions of the MSS are summarised as follows:

- Clause 21.10-2 - Open Space
- Clause 21.16-5 - North and West Melbourne

#### **5.2.2 Local Policies**

- Clause 22.05 - Heritage Places outside the Capital City Zone

The relevant objectives of this clause include:

- To conserve all parts of buildings of historic, social and architectural interest which contribute to the significance, character and appearance of the building, streetscape or area.
- To ensure that new development, and the construction or external alteration of buildings, make a positive contribution to the built form and amenity of the area and are respectful to the architectural, social or historic character and appearance of the streetscape and the area.

## **6 PARTICULAR PROVISIONS**

The following particular provisions apply to the application:

- Clause 52.29, Land adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road.

## **7 GENERAL PROVISIONS**

The following general provision(s) apply to the application:

- Clause 65, Decision Guidelines, which includes the matters set out in Section 60 of the Planning and Environment Act 1987.
- Clause 67, Applications under Section 96 of the Act.

## **8 PUBLIC NOTIFICATION**

Notice of the proposal was given by ordinary mail to the owners and occupiers of surrounding properties and by posting three notices on the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

Pursuant to Clause 67.02 (Notice Requirements), In accordance with Section 52(1)(c) of the Act, notice must be given to:

- The owners and occupiers of adjoining land.
- The National Trust of Australia (Victoria), if the application relates to land on which there is a building classified by the Trust.

Notice of the proposal was given by ordinary mail to the owners and occupiers of surrounding properties in accordance with Section 52 of The *Planning and Environment Act 1987*.

The proposal was advertised for 28 days (14 days longer than the required provisions of the *Act*).

Gardiner Reserve is not classified by the National Trust.

## **9 OBJECTIONS**

A total of two objections were received, and raised the following concerns with the proposal:

- Noise associated with increased use, and an increase in the number of buildings on site represent a security concern.
- Plans advertised not consistent with separate Council consideration on 5 December 2017.
- Pathways through the park unnecessary.
- Changes to Macaulay Road to result in queueing which will flow on to Haines and Shiel Streets.
- Materials not detailed in relation to Dryburgh Street alterations.
- Gardiner Reserve consists of three land titles.

## **10 CONSULTATION**

Given the receipt of the above objections, the following consultation was undertaken:

- Circulation of informally amended plan (15 January 2018) to show modifications made post Council resolution on 5 December 2017.
- Amended plans remove works to Macaulay Road from the scope of works and introduce a simplified path network.

## **11 REFERRALS**

### **11.1 Internal**

The application was referred to the following external authorities for comment:

#### **11.1.1 Engineering Services Group**

Comments received 14 December 2017:

- The Infrastructure team has no objection to the proposed works. Our representatives have been involved in the preliminary review of the project and provided relevant comments to the project manager.

Comments received on 5 January 2018:

- Traffic Engineering continues to work with the Capital Works Team and the Urban Sustainability Branch in regards to their proposal to expand the parkland of Gardiner Reserve, North Melbourne.
- We are supportive of this proposal in regards to its impact on parking, traffic flow and bike lane provisions and continue to work with Shoal, David and Harley in regards to finalising the detailed design plans.

## **11.2 External**

The application was referred externally to Melbourne Water and VicRoads in accordance with Section 55 of *the Act*.

### **11.2.1 VicRoads**

Works to the Macaulay Road bike lane were withdrawn from the application, shown on plans dated 10 January 2018. As the works do not impact the road managed by VicRoads (RDZ1), it is no longer a determining referral authority. VicRoads have been notified of the change to the scope of works and have confirmed no further consultation is required on this project.

### **11.2.2 Melbourne Water**

On 19 December 2017, Melbourne Water submitted an objection to the proposed works, citing drainage and floodplain management issues to be rectified.

A flood impact assessment was provided to Melbourne Water by the applicant, who subsequently withdrew the objection on 7 February 2018.

## **12 ASSESSMENT**

The application seeks to carry out buildings and works for the expansion of Gardiner Reserve into the Dryburgh Street road reserve.

The assessment is confined to the decision guidelines of Clauses 43.01 (Heritage Overlay) and 44.05 (Special Building Overlay).

### **12.1 Special Building Overlay**

The decision guidelines of the Special Building Overlay rely on comments from Melbourne Water, being the relevant floodplain manager.

The applicant has consulted with Melbourne Water and was requested to submit a flood impact assessment. Melbourne Water does not object to the current application documents.

The proposal remains consistent with the existing use of the site, and is supported by the relevant floodplain management authority.

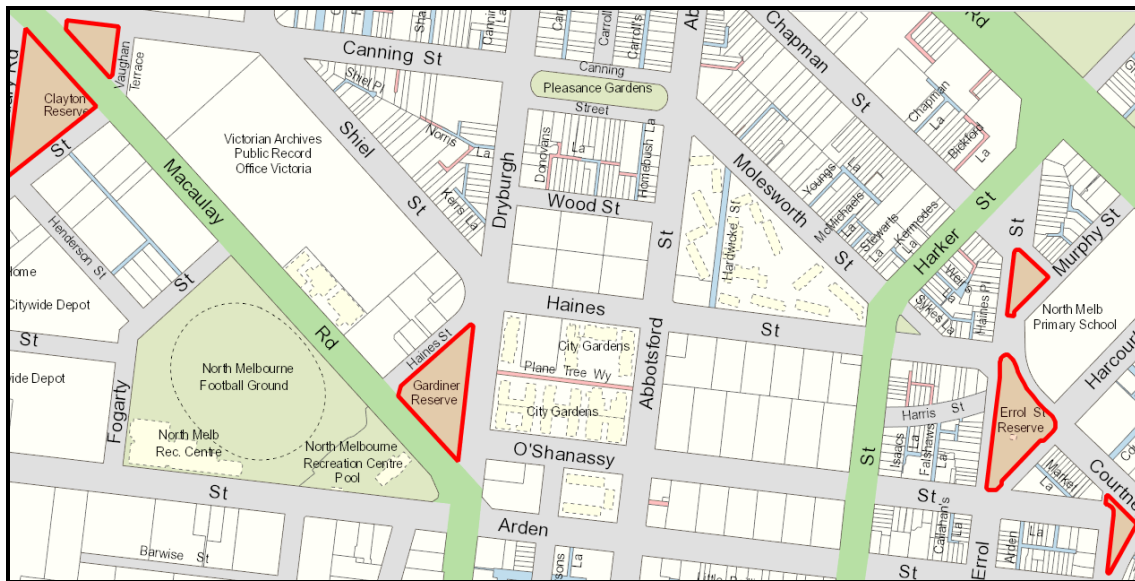
### **12.2 Heritage**

A permit is required under the overlay to carry out demolition, buildings and works including works to the kerbs of all street frontages. These works are to be considered under the provisions of Clause 22.05 and 43.01 of the Melbourne Planning Scheme.

Gardiner Reserve is one of several triangle reserves located within North Melbourne (Errol Street Reserve, Leveson Street Reserve, Chapman Street Reserve) acknowledged as a distinct feature of the area.

The applicant engaged a heritage consultant in the development of the park expansion to identify key assets of the site. A list of which are included below indicating the items which will require a permit (for buildings and works under the Heritage Overlay):





**North Melbourne ‘triangle’ reserves.**

- Open Landscaped public reserve
- Mature exotic planting of pepper trees and plane trees along the perimeter
- Older elms in the adjoining Dryburgh Street
- Perimeter basalt kerb and channel with asphalt footpaths
- Melbourne Electricity Supply substation

Clause 22.05 and Clause 43.01 of the Melbourne Planning Scheme seek to conserve and enhance places and areas of architectural, social or historic significance and to ensure that new development makes a positive contribution to the built form and amenity of the area and is respectful to the existing character and appearance of the streetscape and the area.

While the proposal removes some of the road formation, the design makes reference to the original street layout and reuse of heritage materials. While the physical form is altered (increased), the park importantly maintains the triangular nature of the space with the expansion into Dryburgh Street.

Bluestone kerbs and guttering pitchers removed from the periphery of the existing square are to be lifted and reused across the expanded park. The preservation of these materials is respectful and consistent with Clause 43.01 given these works conserve these materials and enhance the precinct.

Installation of new lighting and paths will result in an improved pedestrian experience and contribute to the increased perception of safety through the grounds.

On balance, it is considered that the proposed works are an acceptable outcome in terms of heritage whilst providing for the expansion of highly valued public open space, enhancing the reserve itself and the broader streetscapes.

**12.3 Objections not already addressed**

The proposal does not seek to construct additional buildings, or create entrapment spaces. In addition to increase of space in Gardiner Reserve, new lighting is to be installed throughout the grounds.

Clause 11-06-5 of the Melbourne Planning Scheme promotes a balancing of sometimes competing policy interests in favour of community benefit. In this case the community benefit of a larger and more functional public open space needs to be balanced against the above (noise) concerns. Gardiner Reserve has been used as a park since at least 1905, and is considered a valuable asset to the residents of North Melbourne. No unreasonable impacts by way of noise are expected to result from the proposal.

Other matters are considered outside the scope of this assessment.

## **12.4 Conclusion**

It is considered that the proposal is consistent with the relevant sections of the Melbourne Planning Scheme, as discussed above.

## **13 RECOMMENDATION**

That a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Prior to the commencement of the development, one copy of plans, drawn to scale must be submitted to the Responsible Authority, generally in accordance with those submitted on 14 November 2017, Drawing No. SD-01-SD03, but amended to show:
  - a. Delete works to Macaulay Road boundary, and road reserve,
  - b. Revised pedestrian pathway from Haines Street shown on Drawing No. SD02 dated 15 January 2018,
  - c. Feature notes to confirm reinstatement of existing bluestone into kerb and channels of Gardiner Reserve perimeters.

These amended plans must be to the satisfaction of the Responsible Authority and when approved shall be the endorsed plans of this permit.

2. The development of the land as shown on the endorsed plans must not be altered or modified unless with the prior written consent of the Responsible Authority.
3. This permit will expire if one of the following circumstances applies:
  - a) The development is not started within two years of the date of this permit.
  - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards. The Responsible Authority may extend the time for completion of the development if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.

## **NOTES**

All necessary approvals and permits are to be first obtained from the City of Melbourne and the works performed to the satisfaction of the responsible authority – Manager Engineering Services Branch.

This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant must apply for and obtain appropriate building approval from a Registered Building Surveyor.

The applicant/owner will provide a copy of this planning permit and endorsed plans to any appointed Building Surveyor. It is the responsibility of the applicant/owner and the relevant Building Surveyor to ensure that all building (development) works approved by any building permit are consistent with this planning permit.

This Planning Permit does not represent the approval of other departments of Melbourne City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.

**Loughlan Curran**

Acting Senior Urban Planner

19 February 2018