Heritage in Ruins: an investigation into Melbourne’s ‘buried blocks’

report to the Heritage Council Victoria (project PR180502)

28th May 2019

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Acknowledgements

The authors would like to thank the following people:

Barry Green and Laura Campbell – Green Heritage

Michelle Negus Cleary – Vincent Clark and Associates

Geoff Hewitt – archaeological consultant

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1 Introduction

This report was completed for project PR180502 ‘Heritage in Ruins: protecting Melbourne’s most significant archaeological sites’ commissioned by the Heritage Council of Victoria, and conducted in partnership with Heritage Victoria.

The research for this project aimed to identify, assess and rank specific locations within the Melbourne CBD that are likely to contain extensive, well-preserved archaeological sites of state significance ‘that may have been preserved as a result of the City Council’s program of raising ground levels in flood prone areas’ (HCV Project Brief: 2), as described in the project brief:

Historical evidence and recent archaeological excavation have revealed that the block bounded by Lonsdale, Exhibition, Russell and Little Lonsdale Streets underwent a significant transformation in the mid-1850s when the Melbourne City Council raised street and ground levels to address flooding issues in this part of town. The demolition of buildings and burial of their remains as part of this process has resulted in the preservation of a remarkable and possibly unique archaeological landscape of significance to Victoria.

Under the Heritage Act 2017, the VHR is the mechanism by which historical buildings, landscapes, objects and archaeological sites of state significance are protected. Given current development pressures in the city, any archaeological sites of state-level significance – if not proactively identified and protected in advance of development – are at risk of disturbance and loss. This project aims to ensure the identification and assessment of possible sites for their inclusion on the VHR.

It is not the intent of this project to identify archaeological sites in the CBD that are routinely uncovered and found to be in a good to excellent condition.

Instead, the aim of this project is to identify archaeological sites relating to Melbourne’s earliest historic occupation that are extraordinary in their condition – most likely as a result of the City of Melbourne’s civic works programmes in the early to mid-1850s – and thus potentially of state-level significance so they can be nominated for inclusion on the VHR and be proactively protected. This will enable appropriate conservation and interpretation plans to form part of site development plans, as is common in some overseas cities, rather than their existence being a ‘surprise’ and thus leading to their wholesale destruction (after archaeological investigation and recording) which is currently the case (Project Brief).

1.1 Research undertaken for this report

Research for this project focused on four main areas:

- Early Melbourne City Council records available in the Public Record Office Victoria;
- Nineteenth-century newspaper reports, available online via the National Library of Australia’s Trove website;
- Available archaeological reports concerning excavations undertaken in the Melbourne CBD; and
- Mapping of information drawn from the above sources.
During the course of the research undertaken for this project, it became clear that there is a vast amount of interrelated information concerning street formation and the fixing of permanent levels, Council land filling orders, complaints from residents to Council, records concerning ‘nuisances’ associated with rubbish and nightsoil disposal, drainage and the general cleanliness of the city CBD and surrounding parts, not to mention issues concerning the sourcing and use of fill that are all relevant to this project.

The information presented in this report is in effect only scratching the surface of the available resources. It should be noted that the Melbourne City Council (the Council) Records available at the Public Record Office Victoria were by no means thoroughly examined during the course of this research. Limited time meant that some useful records could not be exhaustively examined. For example, the minutes of the Public Works Committee (PROV VPRS 4037), which is probably the prime source of information on Council ordered filling events, were only checked fully for the years 1856, 1857 and up to October 1858 – these records contain very detailed hand-written meeting records concerning a variety of subjects other than land filling orders and quite simply take a good deal of time to read through in order to extract relevant material.

A number of the Town Clerks Correspondence files were examined (PROV VPRS 3181) in the course of this project. These files are divided into subject areas and those subject files consulted are listed in the references (Section 8). There are several other subject files that were not consulted and, given the apparent fluidity or crossover between some of the files, it may be worth inspecting some of those for subjects less clearly relevant to the issues of land filling and street levels in order to ensure that all pertinent material has been collected.

There is likely to be material as yet unidentified that would be of use to this project. For example, City Surveyor specification records (PROV VPRS 9441) occasionally make reference to plans which apparently showed detail concerning levels, cross-sections, etc. for street formation and other contracts. If these still exist they have the potential to provide useful information concerning changing street and land levels. Other sources of information concerning alterations in street levels would similarly be of use, as, possibly, would any other files containing records generated by the City Surveyor and it became clear in the course of the project that any data that provides an indication of the alteration of the street levels in the city would be particularly helpful.

The findings of this report may not been as clear or concrete as was conceived in the project brief – while some locations of possible deep filling have been identified, the information gathered to date does not allow for the identification of specific locations or address details to give the level of accuracy that Heritage Victoria would require in order to consider progressing to a nomination for the Victorian Heritage Register.
It is hoped, however, that the results of the research undertaken to date shed some light on the previously not-well understood process of private land filling in the Melbourne CBD and inner city, and the reasons for the filling having occurred. The results obtained so far also indicate that further research would be profitable in terms of increasing our understanding of the archaeology of early Melbourne as it reveals that while land filling was widespread across the city, individual filling events varied enormously in terms of the depth and filling required and also in terms of the impact that filling orders or requirements had on individual landholders (Sections 2 and 3).

The report also considers the archaeological implications of land filling events, noting that historical filling events, even those of moderate depth, may have a significance impact on the preservation and interpretation of early archaeological material, and increased knowledge of the filling events that took place across the city in the mid to late nineteenth century may assist future interpretation of the results of archaeological excavation in Melbourne, even in those instances when filling was relatively shallow (Section 4).

There is a short discussion on the results of other methods of investigation that were tested as potential approaches to identifying filled areas during the course of the work undertaken for this report, and a discussion of other avenues that may be worth pursuing – these primarily involved further analysis of levels on historical and, potentially modern, plans and an analysis of the process of alteration of street levels in Melbourne (Section 5). In Section 6 there is a discussion that considers whether sites containing deep filling (other than those already excavated) exist in the Melbourne CBD or elsewhere.

Section 7 summarises the results of the report, outlines suggestions for further work and provides some recommendations concerning the potential management of Heritage Inventory sites in light of the potential for filling events to exist in various parts of the Melbourne CBD.

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1 While the study area boundary for this project was the area bounded by Flinders, Spring, Victoria and Spencer Streets, historical research revealed that land filling was common outside of the CBD in present-day Carlton, East Melbourne, West Melbourne and Fitzroy/Collingwood.
2 Background to the need for allotment filling – street levels, drainage and sanitation in early Melbourne

2.1 Street formation and levels

Though some of the highways dedicated to the public were marked out, the street intersections, gullies or quagmires were almost inextricable for man or beast once glued into them, whilst the principal thoroughfares were so incommoded with tree stumps that it took years, even after the incorporation of the town, to thoroughly eradicate them... during winter, the streets were chains of water-holes, and the traffic had to be suspended in places...Elizabeth and Swanston Streets were shallow gullies, with deep and dangerous ruts every twenty yards. Flinders Street was a swamp, and even Collins Street was so slushy and sticky, that often to cross over from any portion of the new well-flagged and fashionable ‘Block’ one required to be equipped in a pair of leggings or long mud-boots...‘boggings’ of the cumbersome vehicles of the time happened at the intersections of Collins and Queen, and Elizabeth and Bourke Streets. In two of the localities of greatest traffic now, there were then two fissures running towards and discharging into the Yarra, which for some years were known as the Rivers Townend and Enscoe. The former starting from near the junction of Collins and Elizabeth Streets...the other propelled its waters along near the north-west corner of William and Flinders Streets...’ (‘Garryowen’ (E. Finn) 1888 in Weidenhofer (ed) 1967: 41–42).

The formation of the streets within the Hoddle Grid, the provision of adequate surface drainage for Melbourne, and funding for the maintenance of both, was an early concern in the life of what was to become the City of Melbourne. Although certainly flatter than many cities in the world, the land that was to become the Melbourne CBD was undulating open woodland (Figure 1) and had a system of natural drainage that was to be disrupted by the creation of the settlement there. Garryowen’s description of the early days of Melbourne (above) makes clear that surface water and drainage was a problem in the new settlement.

The ‘fixing’ of the levels of the streets within the original Hoddle Grid was discussed in 1837 when Governor Bourke made a trip to the settlement during the laying out of the grid (Bourke 23, 25/3/1837 in Jones 1981: 106). A series of section drawings created by Assistant Surveyor William Wedge Darke in 1837 (PROV VPRS 8168/P05 – SYDNEY M45A-H) show the then proposed changes to street levels (see Figures 4 and 5). They included the excavation or cutting down of some locations, for example of Collins Street between King and Queen Streets, and the filling of other locations, such as Collins between Queen and Swanston Streets.
Heritage in Ruins, report to the Heritage Council Victoria

Figure 1 One version of Hoddle’s 1837 plan (PROV VPRS 8168/P05 – SYDNEY M8) of the grid layout that was to become the Melbourne CBD. Note the original shading that indicates elevated land/hills in sections 19 and 6 and sloping land along the rough alignment of Queen Street and south of Collins Street.

Figure 2 shows the streets for which Darke’s sections are available, and provides an indication of the locations in which fill was required according to those section drawings.

The earliest detailed contour plan of the Melbourne CBD is that drawn by surveyor Clement Hodgkinson and dated 12\textsuperscript{th} April 1853 (PROV VPRS 8168/P05, MELBRL-15-1). While Hodgkinson’s plan provides the earliest detailed contour data for Melbourne, the contour data is clearly not of a landscape untouched by the early development of the city. It shows street alignments and contours (with an interval of 4 feet/1.22m) as far north as the central part of Franklin Street, the complete outline of some buildings, and the street frontages of others.\textsuperscript{2} Hodgkinson noted a number of difficulties in undertaking the survey work in late 1852. These included:

\textsuperscript{2} Hodgkinson was instructed to carry out a detailed survey of Melbourne to assist with the planning of the city water supply. The whole-city plan referred to here appears to have been completed while Hodgkinson was also actively working on block plans of parts of the city that
the very numerous subdivisions, the irregularities of back buildings and fences, the obstructions caused by shallow cess-pools, and the difficulties of gaining access to some of the private premises (Hodgkinson 16/11/1852 in Lloyd-Smith 1971: 10).

Hodgkinson’s plan clearly shows that the levels of some of the city streets had been altered by the early 1850s. For example, the level of the portion of Collins Street between Russell and Swanston Street had been cut down, part of King Street south of Collins Street had been filled up and a portion of the eastern part of Lonsdale street had been built up. The level of Little Bourke Street east of William Street also appears to have been cut down and the level of the southern end of Elizabeth Street may have been raised (Figure 2).

Figure 2 Plan of the Melbourne CBD, showing the streets for which surveyor Darke’s 1837 proposed levels are available, and showing those locations where filling was considered to be required (in orange).

While Hodgkinson’s 1853 plans are not those of a completely undeveloped landscape, they do offer some indication of the surface drainage of the city prior to the complete formation of streets and drains and the

provide impressive detail of buildings, fencelines, and other structures (including vineyards and gardens). Unfortunately, these block plans, which are labelled ‘working plans of Melbourne’ are available only for ten of the CBD blocks (PROV VPRS 8609/P35, unit 520; Lloyd-Smith 1971).
modern city environment. On the city-wide 1853 contour plan notations indicate that there were ‘rain courses’ to the west of Spencer Street and south west of the Flinders and Swanston Street intersection. A formed open drain also appears to have carried water from the southern end of Elizabeth Street to the Yarra. Standing water (in the form of two ‘impenetrable sloughs’) are shown on the Hodgkinson’s 1853 working plan of the block bounded by Flinders, King, William and Collins Streets.³

The contours on that plan also offer an opportunity to speculate on the probable drainage patterns in the CBD – certainly the gully that carried water down the course of Elizabeth Street can easily be made out, as can small depressions that probably carried water during rain or wetter periods, such as that along part of the course of Little Bourke Street (Figure 3).

Figure 3 Probable intermittent water courses/drainage lines in the Melbourne CBD, based on Hodgkinson’s 1953 contour data.

³ Hodgkinson appears to have been working on the survey predominantly over the 1852/1853 summer and the following autumn and this timing may have limited the amount of surface water and ephemeral drainage lines shown on these plans. Notations on the block plans indicate that they were surveyed between March and June 1853, although it is known that he had commenced work on the detailed survey of Melbourne by November 1852 (Lloyd-Smith 1971: 10).
Figure 4 Surveyor Darke’s proposed levels (1837) for the western portion of Lonsdale Street. The notations on the plan indicate that the red line shows the then present surface and the black line shows the proposed level. Note that the vertical scale is exaggerated (PROV VPRS 8168/P05 – SYDNEY M45C).
Figure 5 Surveyor Darke’s proposed levels for the length of Collins Street. Again, the red line indicates the then land surface and black lines indicate proposed levels. Vertical scale is exaggerated (PROV VPRS 8168/P05 – SYDNEY M45A).
Though clearly some alteration to street levels had taken place by 1853, whether all of Darke’s proposed levels for street formation were immediately acted on is unclear. Given Garryowen’s description of the settlement in late 1830s and early 1840s (above) it would seem unlikely that much work was done on Melbourne streets in that time. Certainly from at least the mid 1840s the Town Council made several requests for funding ‘toward improving the streets of Melbourne’ to the Governor in Sydney via Superintendent La Trobe. In 1845, for example La Trobe relayed a request from the Town Council that ‘such portions of the proceeds of all sales of the Crown Lands within the town…be appropriated and applied to the public service of the Colony’ specifically ‘to the formation of the streets and the general improvement of the town’ (La Trobe 30/6/1845, in PROV VPRS 3621). This request was denied on the grounds that such funding was for main lines of communication only (Col Secretary 11/7/1845, in PROV VPRS 3621). A request for £5,000 to be placed on the estimates for 1847 ‘towards improving the streets of Melbourne’ was similarly denied to ‘his Excellency’s great regret’ (Col Secretary 30/6/1846 in PROV VPRS 3621).

2.1.1 Early street formation and the alteration of levels – controversy and push-back from landowners

Despite these issues with funding, it is clear that some basic street formation had commenced in the mid 1840s. Newspaper reports from 1846 highlight a controversy around levels in the portion of Collins Streets between Elizabeth and Swanston Streets, noting that this location is ‘naturally the lowest part of the town…and…in rainy weather, a swamp’ (Port Phillip Gazette and Settler’s Journal 2/9/1846).

According to the report, the original government survey proposed a level for Collins Street (presumably Darke’s levels shown in Figure 5) some 6 feet, 6 inches above natural ground ‘contemplating the probability of this swamp being filled up’, and the earliest house in that portion of the street, owned by a Mr. McNeil, was built to that proposed level prior to the street itself being formed. This appears to have been the expectation in the early decades of Melbourne – that landowners, who were often building houses or other structures on their purchased property prior to the streets proper being formed, were expected to ascertain the proposed street level from the appropriate authority and build according to that level. This meant that in many cases either cutting down or filling up their property would have been required prior to construction in order for the level of the structure and surrounding yard to match that of the streets on to which they fronted.

By 1846 when the town Council came to form a footpath and kerb along the north side of that portion of Collins Street situated between Elizabeth and Swanston Streets, several other structures had been completed and built not to the proposed level but ‘according to the natural order of the ground’. By this
stage it appears that the original proposed ‘government levels’ of the street had been revised to new ‘corporation levels4’. In this case, the new level was 2.5 feet lower than the government level, but still several feet above the natural ground. The formation of the street and kerb to a level that was neither that of the natural ground, not that of the originally-proposed street level provoked a predictable outcry from landowners in that portion of Collins Street. The *Port Phillip Gazette and Settler’s Journal* noted that:

> It will appear evident that had this locality been raised four feet at first or even six or seven feet it would have been much healthier, and now with Little Collins Street nearly two feet higher and a fall both east and west, it must be damp, and it must also be evident that if the streets should be raised four or five feet and the back yards filled in, it would be healthier for the inhabitants, and very much improve the town. On the other hand, with private property at stake to the amount of some £15,000 or £20,000, the Council would not have been justified in altering the level unless the majority of the inhabitants were anxious for it.

As the street will remain at its present level, so far as we can ascertain, it will require to be far more carefully drained than in times past, as from the evidence of some of the inhabitants, we ascertain they are almost flooded in the rainy season (Port Phillip Gazette and Settlers Journal 2/09/1846).

The *Argus*, in discussing the issue of the Collins Street levels that same year, made reference to a similar controversy in ‘the upper end of Elizabeth Street’ when the Town Council commenced work on the formation of that street:

> Then, as now, the inhabitants complained that their property was to be injured... The levels were at once altered, and that too after £800 worth of street had been made (The Argus 4/9/1846).

This, and other street level controversies were no doubt what prompted the Francis Stephen (solicitor to the City of Melbourne) on behalf of the Corporation of Melbourne to seek legal opinion from barrister Edward Williams in 1847 on the Corporation’s ability to alter the government levels proposed at the original laying out of the town, and on matters of liability stemming from the alteration of the levels. Specifically, the Corporation wished to know:

> 1st Whether they have the power of raising and lowering the Streets of Melbourne as they may deem meet and thereby altering and deviating from the original Government levels?

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4 The Town of Melbourne was incorporated in August of 1842 by Act 6 Victoria No 7. This Act ‘made provision for the creation of a Town Council to administer the affairs of the town.’ (City of Melbourne 1997: 14).
2ndly If the Corporation has no such power under its Act of Incorporation what would be the measure of damages which the owners of divers buildings injured by the Corporation alterations might alterations might recover against the corporation? (Stephen 8/1847 in PROV VPRS 9309/P01, item 17)

Williams replied that

I am of opinion that the Corporation under the 6th Vic No 7 have the power of raising and lowering the Streets of Melbourne as they may deem meet and of thereby altering and deviating from the original Government levels - provide the Corporation do not act arbitrarily oppressively or carelessly... Some individuals suffer an inconvenient under all acts of Council of a like nature but the interests of individuals must give way to the accommodation of the public... Their power must have a reasonable construction - their discretion is not arbitrary but must be limited by reason and law... The corporation have a public duty to perform and they are not liable for damage resulting to an individual from an act done by them in the discharge of that public duty (Williams 24/8/1847 in PROV VPRS 9309/P01, item 17).

Pressure, however, remained on the Council to consider the impact of street level changes on residents and landowners:

Notice of Motion

By Alderman Johnstone. – That the system of street levels recently adopted by the Council being found in many places to involve extensive and costly excavations or embankments, to the great detriment of private property, without sufficient countervailing public advantage, the Public Works Committee be requested to visit in person the different localities in which any serious deviations from the natural surface of the ground are proposed, and report to this Council as early as possible what alteration in each system of Levels are advisable (Melbourne Daily News 6/12/1848).

It was not until the mid-1850s that street formation in Melbourne ‘kept pace with development’, and according to Dunstan ‘not until 1849, when James Blackburn was appointed as City Surveyor, that the Corporation obtained a man with any talent as a water engineer’ (Dunstan 1984: 127).

2.1.2 Drainage and Sanitation – the 1848 Sanatory Committee and ‘Lake Lonsdale’

Probably the main issues that bolstered the case for the continued alteration of the levels, and of the subsequent 1853 Act which allowed the Council to enforce the filling of private property, were those of health and sanitation.
In the late 1840s a Sanatory Committee, chaired by Thomas McCombie,5 was appointed ‘to inquire and report upon the best means of improving the sanitary condition of Melbourne’ (PROV VPRS 3181/P0, unit 364). The resulting report highlighted a number of issues relevant to this project. They noted, for example, that ‘the dwellings of the humble classes are huddled up in the lowest portions of [the city]’, that the lack of surface drainage and sewerage, and that the ‘filthy conditions of the narrow streets, courts, alleys and backyards’ and the slaughtering of sheeps and pigs that took place within the city all counteracted the naturally ‘healthy situation’ of Melbourne.

One of the committee’s correspondents, the Reverend A. C. Thomson,6 focused on the presence of stagnant water and inadequate drainage in private yards. He thought that sickness in the hot months of the year was due to ‘the stagnant pools’ that were present ‘in many of the back yards, and even below some of the wooden hovels’ and suggested that ‘the exhalations from Lonsdale Swamp are likely to be hurtful as from the water being fresh there will be much decomposing vegetable matter when the swamp dries up in the hot weather’. Amongst the suggestions made by Thomson to the committee was the recommendation that some sort of provision be made for ‘the filling up of back yards to the level of the streets, or at least to above the level of the gutters, with means to carry the surface water off, as it fills’ (Thomson 30/6/1848 in VPRS 3181/P0, unit 364).

The Reverend James Forbes7 also noted that disease was ‘much more virulent in the low parts of the city’ as between Swanston Street and the Royal Hotel8 (Forbes 30/6/1848 in VPRS 3181/P0, unit 364) and Dr Black was of the opinion that ‘most if not all of the disease generally met with in Melbourne are decidedly influenced by the want of sufficient drainage and the filthy condition of the numerous narrow courts and alleys and by the exhalations of Lonsdale Swamp and the lagoon which bounds the city to the west’ (Black 30/6/1848 in VPRS 3181/P0, unit 364).

Amongst other issues, the committee report identified:

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5 At the time that this committee was in operation McCrombie represented Bourke Ward on the Melbourne Town Council (Australian Dictionary of Biography online, accessed 6th February 2019).
6 Adam Compton Thomson was a Church of England clergyman, and was the sole Anglican priest for Melbourne and district between 1842 and early 1848. He remained in Melbourne until 1850 (Australian Dictionary of Biography online, accessed 6th February 2019).
7 James Forbes was a Presbyterian clergyman, present in Melbourne/Port Phillip from 1838 until his death in 1851 (Australian Dictionary of Biography online, accessed 6th February 2019). Forbes has been described as ‘the first permanent minister in Melbourne, the first minister of the Scot’s Church and Melbourne’s first great educationist’ (Freeland 1963: 100).
8 There was a Royal Hotel in Collins Street in the 1840s. It was clearly a well-known venue, being used, for example, as the polling booth for the Lonsdale Ward in the first town Council elections (City of Melbourne 1997: 16) and as the location of the first election of Aldermen shortly after the 1842 Act to Incorporate the Inhabitants of the Town of Melbourne was passed (‘Garryowen’ (E. Finn) in Weidenhofer 1967: 54–55). Presumably it was located in the lower-lying portion of Collins Street, somewhere between Queen and Swanston Streets (Figure 3).
the large swamp on the eastern side of the city known as Lake Lonsdale...to be the most injurious to the health of the citizens from the noxious vapours it emits in warm weather, and those resident in the quarter complain loudly of the injurious effects of the miasma upon the health of their families (VPRS 3181/P0, unit 364).

and noted that a lack of surface drainage across the city was a health concern:

It is, moreover, obvious that in addition to the want of sewerage, surface drainage is imperfect; and that in many parts of the city pools of stagnant water in a state often of putrification, which the adjoining or lanes will not allow of being drained except by extensive filling are abundant...

(VPRS 3181/P0, unit 364).

‘Lake Lonsdale,’ and ‘Lonsdale Swamp’, appear to have been terms in use through the 1840s for a location towards the eastern end of Lonsdale Street – there is passing reference, for example, to it as a source of ‘miasma’ in a brief discussion of the then proposed location of the Melbourne Hospital (on Lonsdale Street, between Swanston and Russell Streets) (Port Phillip Patriot and Melbourne Advertiser 16/7/1845) with the obvious implication that the ‘lake’ was nearby. Given the known issues surrounding the block of land bounded by the north side of Lonsdale Street and by Russell and Stephen (later Exhibition) Streets, which is discussed further in Section 3.1, it would seem likely that this is the location of the notorious ‘lake’. This supposition is supported by an 1855 reference to a school near Lake Lonsdale (Section 3.1) which also accords with the characteristics of the Lonsdale, Russell, Little Lonsdale and Stephen Streets block.

The Sanatory Committee report included several recommendations for alleviating the identified health hazards then present in Melbourne. They were divided into two divisions, with the first being those that ‘are not within the present ability of the Council to carry out from lack of pecuniary resources, the inefficiency of the law, or from other causes.’ These were as follows:

1. **Of the first division is a proper system of sewerage upon some comprehensive plan, such as may recommend itself to the Council.**

2. **An Act to levy the Sewerage rate.**

3. **A sufficient supply of water.**

4. **Preventing the erection of any new slaughtering establishments.**

5. **The framing of a Building Act.**

The second division of recommendations consisted of the following:
1. To request the Legislative Committee to frame a Bye-Law for the prevention of slaughtering stock of any description within the inhabited portions of the City of Melbourne.

2. To request the Mayor of Melbourne to enforce as stringently as possible the various provisions of the Town’s Police Act; and use every precaution to remove the masses of filth and offal which disgrace many portions of the city.

3. To carry out so far as practicable, a system of surface drainage by rendering the water channels in the several lanes and streets in the city free from obstructions.

4. To apply to the Executive for authority to clear the space between Melbourne and the beach, so that the obstruction to the free access of pure sea air may be removed.

5. To point out to the Government the danger to the public health from the system of laying out a narrow lane alternately with a wide street, and urging the propriety of forming the streets henceforward of a uniform width (VPRS 3181/P0, unit 364).

Although not adopted as one of the final committee recommendations, one of the solutions proposed by Rev Thomson to alleviate the problem of poor surface drainage was ‘the filling up of back yards to the level of the streets, or at least to above the level of the gutters, with means to carry the surface water off as it fills’ (Thomson 30/6/1848 in VPRS 3181/P0, unit 364). Interestingly, the committee’s recommendations went only so far as to recommend improvements to drainage in streets and lanes, without mention of improving the situation on private property, despite having acknowledged that pooling stagnant water on private problem was a serious health concern.

As Dunstan has noted, many of the issues identified in the 1848 report continued to plague the town for some time. In 1849 an observer remarked that ‘on every street corner one meets with something offensive…One cannot pass a butcher’s shop without being half poisoned, and the whole city reeks with unsavoury odours’ (Howitt 1849, in Dunstan 1984: 122). The odours were associated not only with the butchers’ shops and slaughtered animal, but also to the cesspits present ‘low-lying and poorly drained areas’ (Dunstan 1984: 122). An 1852 report on the sewerage and supply of water for Melbourne noted that the backyards and enclosures of many Melbourne properties contained

astounding accumulations of putrescent substances and rubbish of all kinds…Many of the foundations of buildings are greatly injured owing to the saturation of the subsoil by liquid excrementitious matter. In the block bounded by Great and Little Bourke Street, Elizabeth Street, and Swanston Street, there is a space of upwards of one hundred square yards hitherto occupied by a green putrid semi-liquid mass, partly formed by the outpourings of surrounding privies; and
in the blocks north and south of this one, the very passages and rights-of-way are similarly saturated (Hodgkinson 1852, quoted in Grant and Serle 1978: 100-101).

2.1.3 Acts to improve the surface drainage of Melbourne

The response to the Sanatory Committee report, particularly in respect to the surface drainage of the city, was slow to eventuate. At an 1850 public meeting of the ratepayers of Melbourne reported in the Geelong Advertiser there appears to have been common agreement that the main problem lay with the lack of power vested in the City of Melbourne to enable the Council to address the issues identified in the 1848 report, although one speaker did suggest that the complacency of the local population was also to blame, noting that ‘the people care not for drainage and cleanliness, they are so full of meat, bread and brandy and water’. McCombie, who had chaired the Sanatory Committee asserted that subsurface drainage was required and also noted that ‘many of the streets has been raised, which tended to dam back the water and flood behind the houses, in other places it lay in pools, exhalations from which by the action of solar rays, vitiated the atmosphere’. Other speakers noted that subsurface drainage could not properly operate or be cleaned until a reservoir and supply of water had been established (Geelong Advertiser 9/5/1850).

Presumably at least partially in response to the findings of the Sanatory Committee, and the lobbying carried out in 1850, and certainly in response to the worsening conditions in Melbourne, two Acts were passed in the early 1850s which were intended to alleviate some of the drainage problems in the City of Melbourne. The first (Act 14, Victoria No 20), in 1850, provided the City Council with the ability to order private landowners to adequately control the drainage in private lanes, alleys, courts or other access ways that serviced their properties.

The second (Act 16, Victoria No 38), assented to in 1853, went further and allowed the Council to order private landowners to fill their land to the level of adjacent streets or lanes so as to enable proper surface drainage across the city – this Act would directly address the issue and the recommendation made by the Rev A.C. Thomson some five years earlier.

**Act 14 Victoria No 20 (1850) – An Act for regulating the formation, drainage, and repair of Streets, Courts, and Alleys on private property within the City of Melbourne**

This Act, assented in September 1850, provided the City Council with the ability to order the paving, levelling and draining of the several private streets, courts and alleys which then existed within the City of Melbourne, and the further ability to take action to ‘remove all obstructions, and to pave, flag, macadamise, level, drain, sewer and otherwise complete or repair the same...pursuant to the said order; and to ascertain, determine, and charge such respective owners with their several proportionate parts of the costs, charges,
and expenses thereof, according to and co-extensive with their respective tenements adjoining or abutting on such street…’

Act 16 Victoria No 38 (1853) – An Act to amend in certain respects An Act intituled ‘An Act to Incorporate the inhabitants of the Town of Melbourne,’ and to make further provision for the cleansing and improvement of the City of Melbourne.

This Act gave the city Council further ability to access private property for the purposes of constructing drainage, though compensation would be owned to the landowner, and the ability to order owners of private property to raise the level of their land to that of adjacent street. It is this latter part that is, of course, of most relevance to the current project. The most salient portions of the act are reproduced below. The full act is provided in Appendix 1.

Whenever it shall be made to appear to the Council of the said City upon the statement or complaint in writing of the Surveyor thereof that the surface of any yard or land situated in the said City and not being a street therein is lower than the level of the nearest street or of the street sewer or drain into which the water off the said yard or land should in the opinion of the said Surveyor flow or be made to flow it shall be lawful for the said Council at any time by writing…to order that the surface of such yard or land or any part thereof shall be raised to such a height in such manner and within such time as to the said Council may appear expedient and thereupon the occupier or owner of the said yard or land shall in such manner and within such time as shall be expressed in such order raise the surface thereof to the satisfaction of the said Surveyor.

If a landowner refused such an order or did not carry it out within the specified time, the Council was empowered to have the land raised and subsequently charge the owner for costs.

The upshot of these pieces of legislation is that the scene was set in 1853 for the City Council to commence ordering private landholders in the area under the Council’s jurisdiction to fill their properties to the level of surrounding streets or lanes.

The progression from street forming and levelling, to private laneway formation, levelling and drainage to the filling of private yards is a logical one. The building up of streets (including private laneways, alleys and courts) over lower-lying ground resulted in the predictable interruption of the natural drainage of the CBD – in effect causing newly formed streets to act like dams and resulting in the pooling of surface water that may have once flowed away. The only viable solution to this was to build up adjacent land with the aim of directing all water into street drainage with the hope that it could be controlled in that manner - particularly in the absence of any proper sewerage system which was not to arrive for several decades (Dunstan 1984:
It was in the mid 1840s, when the City Surveyor recognised that Elizabeth Street was, in effect, the main sewer of the town, and according to Dunstan work commenced on ‘the formation of large two-feet deep concave channels that were to remain a feature of Melbourne streets for the rest of the century’ (Dunstan 1984: 127). It was the formation of the streets, and adjacent land to their ‘permanent level’ and the creation of street side drains that appear to have been the main focus of the effort to improve city drainage through the 1850s and into at least the 1860s.
3 Filling events – 1850s and 1860s

3.1 The nature of the historical evidence and the nature of the filling events

There is ample historical evidence for a number of filling events, provoked by orders from the Council, having taken place across Melbourne in the 1850s and 1860s, and most likely in the decades beyond\(^9\). These orders are recorded in such places as the minutes of the meetings of the Public Works Committee (VPRS 4037), and references to some may also be found in newspaper reports of committee meetings. For the most part, the records in these sources provide an indication as to the location of the property – though sometimes this can only be determined with additional historical research because in many situations the property is recorded as that belonging to a particular landowner in a particular street, rather than by any designation that would easily identify the property. Rarely do committee meeting minutes indicate the depth or type of filling required. Some of this information (for a small number of the filling events) has been found in other sources, such as in the Town Clerk’s correspondence relating to streets. Letters concerning filling events found in these correspondence files tend, because of the nature of the communication, to provide more detailed information concerning the nature of the filling.

Appendix 2 provides examples of a sample of filling events, or correspondence concerning filling events, derived from historical sources, that took place in the 1850s and 1860s. The list is considered to be a sample on the basis that a) not all of the available records from the 1850s and 1860s that may contain data on filling events have been examined (see Section 1.1), b) that not all filling events will have been recorded in any government or public documents, and c) that not all references to filling events encountered for locations outside the CBD study area were recorded during the historical research. The approximate locations of each of these filling events (where known) is shown on Figure 6. Thirteen of these are located within the designated study area for this project (within the area bounded by Victoria, Spring, Flinders and Spencer Streets) an additional twelve mapped events are located outside the study area but are close to its border as shown on Figure 6 – these are clustered in either Carlton or West Melbourne, respectively. Other filling events listed in Appendix 2 but not shown on Figure 6 include probable filling events in locations more

\(^9\) Because the focus of this project initially was on early, deeply buried archaeological features, and because of limited funding and therefore time, historical research undertaken for this project has focused primarily on the decades leading up to 1870. There is evidence that filling orders and events took place in various parts of Melbourne well beyond 1870. For example, The Argus of 18th of June 1883 reported on correspondence from a resident to the Brunswick Council in which he stated that filling up the land that he had been ordered to fill would simply direct water into his neighbour’s land, in 1892 Thomas Bates of Port Melbourne was ordered to ‘fill up his land in Stokes Street (Standard 18/6/1892) and an 1890 Report on the Sanitary Condition and Sanitary Administration of Melbourne and Suburbs noted the ongoing construction of houses on low-lying ground (particularly in South Melbourne) which became the receptacle for stagnant water when streets or footpaths were raised to a higher level (Gresswell 1890: 6).
removed from the study area, for example further north in Carlton (near the intersection of Palmerston and Station Streets) and in East Melbourne.

The list provided in Appendix 2, which totals 35 known or inferred\(^\text{10}\) filling events, is by no means exhaustive – it is likely that additional, undiscovered, filling events occurred both inside and outside the CBD study area in the 1850s and 1860s, and it is known that additional filling events occurred in later decades, certainly outside, and possibly inside the study area. Additional research would be required in order to complete a more detailed and extensive inventory of filling events.

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\(^{10}\) A small number of the references (for example 15 and 21) are to inferred filling events – these are references that describe conditions that likely led to filling events.
It should also be noted here that it is probable that in many instances landowners filled up their properties without the need for Council orders or intervention – in these cases no record of the event is likely to exist in the City Council or Public Works Committee records.

3.1.1 Locations of filling orders

In the majority, perhaps all, of the cases viewed, the requirement to fill a portion of land was the direct consequence of the formation of the adjacent street. As discussed earlier, street formation, particularly in low-lying locations, had the effect of disrupting any existing surface drainage that followed the natural contours of the city. The effects of this in some locations, appears to have been dramatic, and in some cases even disastrous. One such area is the supposed location of ‘Lake Lonsdale’, where conditions appear to have worsened after the formation of Lonsdale Street:

[letter to the editor] ‘Sir, - from the report of the Registrar General lately published, it would appear that there is a very great preponderance of deaths from epidemic and infectious diseases. Now, as one great source of diseases of this character is derived from the existence of fetid nuisances, such as open ash-pits, or pools filled with decomposing matter, it assuredly lies within the power of those directing our municipal affairs greatly to lessen the rise and spread of these alarming and fatal evils...not far from my residence there is an open space of ground, on the north side of Lonsdale street, between Russell and Stephen streets, which is an eyesore to the inhabitants, and an evidence of disgraceful neglect on the part of whose duty it is to inspect such nuisances. Towards the close of last summer the street and pavement were here raised several feet and this large open space on the north side consequently made a hollow. No provision was made for either draining the water off, or filling up the place level with the road, and it has therefore become the reservoir of all the winter rains - in fact, a miniature Yan Yean. At present, this standing pool, for it is nothing else, is in a condition to be truly dangerous to the health of the inhabitants, being filled with decayed and decaying vegetable matter, as also a sprinkling of dead rats, and other animals. The locality is populous, and there is a numerously attended day school upon the banks of the verdant water (The Age 11/9/1855).

Certainly, the historical contour lines derived from the 1853 Hodgkinson plan of Melbourne illustrate the dam-like consequences of street-forming in this location (Figure 7). An 1857 article from The Age also noted the dam-like results of the formation of the streets:

Like all modern cities, where the erection of dwellings must precede the formation of permanent road levels, Melbourne presents numberless instances of houses adjoining the sides of rights-of-way whose floors are several feet beneath the street level, and as in most instances the channels,
from the absence of sewers, are incapable of carrying off the storm water rushing down from higher ground, and finds its way into the basement storeys, and accumulates beneath the floors, rendering the dwellings wholly unfit for human habitation. Sutherland Street presents a striking example. As the street level is raised nearly four feet above the original slope of the ground, it follows that the houses built along its sides have been left as much below the new level... (The Age 23/3/1857).

In other locations, the damming of water resulting from road construction had even more serious consequences, as is outlined in this entry in the Public Works Committee meeting minutes of August 1856.

Letter read from the Honourable the Attorney General enclosing a copy of verdict at inquest on the body of a man found drowned in a waterhole off Spencer Street. Town clerk instructed to forward to the Attorney General copies of the correspondence that has taken place between the...
public works department and the government and the corporation relative to the fencing in of
crown lands abutting on newly made streets (20/8/1856 in VPRS 4037/P03, unit 3).

And near Dudley Street in West Melbourne four years later:

Right Worshipful Sir, I have the honour to complain to your worship of a nuisance near my
residence in Dudley Street west, there is a large water hole or pond in a right of way leading off
the above-mentioned street endangering the lives of all passersby. A child was only a few days
ago taken out of it by a person passing at the time or it would have been inevitably drowned.
The street has lately been kerbed and channeled which has been the means of making it much
worse being deeper and a great deal more dangerous...(W. C. Thomas 13/9/1860 in VPRS
3181/P0, unit 653).

In other instances, land filling orders were required in order to rectify much more modest differences
between property and street levels, for example in the instance of Edward Barker’s property on Bourke
Street, cited below.

3.1.2 Unrecorded filling events

The notices that stemmed from the City Council ordering landholders to fill up their properties or, if such
orders were not complied with, from the issuing of a contract to have the land filled by a contractor, form
the main evidence available for the undertaking and distribution of the filling of private land in the 1850s
and 1860s. It is likely, however, that there exists also a whole division of landowners who undertook the
required filling without the need for government intervention. Certainly, there does exist ample evidence
of landowners attempting to comply with the permanent street levels – enquiries regarding the projected
street levels from owners planning to build were a common feature of public works committee meeting
minutes in the 1850s. Their very ubiquity in the minutes gives the impression, however, that the permanent
levels of many of the streets of Melbourne were somewhat in flux for some time. For example, Edward
Barker, a resident of Bourke Street (in number 133, on the north side between William and King Streets,
according to the 1854 Butterfield directory) contacted the City Council regarding the changing level of the
street:

Four years ago the owner of the house I now occupy applied to the city surveyor to name the
intended future level of the street and afterwards channelled and kerbed the distance at his sole
expense but now I find the path way in front of the property below me has been raised about
eight inches which I presume to be the permanent level and which will cause the front of my
residence to have a stagnant pool of water which will become offensive, may I therefore beg you
will oblige me by giving instructions for it to be raised to the level now forming (Barker 13/8/1855 in VPRS 3181/P0, unit 822).

The raising of the streets to permanent levels was not the only problem – other landowners found that the lowering or cutting of adjacent streets left their property at odds with the permanent levels:

I beg to lay the following case before you. In 1857 I purchased a piece of land in this street as no levels could be given for any streets below or west of Spencer Street proceeded to erect a house thereon at a distance of 44 feet from the street so that the latter being formed the new levels should not interfere with the house then erected.

On the 22nd March being desirous of building close to the street I applied for the intended formations and erected a house accordingly. Since the commencement and completion of Dudley Street the levels have been made entirely different from those given to me the consequence of which is that my house has been raised 18 inches higher than originally intended and I have been put to the expense of ordering bluestone steps and have been unable for the last six weeks to [?] the [?] with apparently little prospect of yet doing so - my design for building the additional houses is also completely frustrated and I have therefore to beg the corporation and enquire humbly of your honourable body into this matter... (William Wallace 5/9/1859 in VPRS 3181/P0 unit 464).

The clear evidence for landowners on the whole desiring to comply with filling obligations prior to any Council-issued filling order suggests that there may be numerous locations across the CBD, and probably in the inner city also, where filling took place in the mid to late nineteenth century for which there is not likely to be any direct historical evidence in the Council records.

3.2 Complying with filling orders

It can be assumed that the majority of landowners who received filling orders complied without further difficulty, and in many instances the only record of the filling event is an order to fill which was then carried out by the landowner. It should be noted that in many instances filling orders appear to have been made for yards or empty allotments on which no, or few, structures had yet been constructed. There were certainly instances in which filling orders were issued on properties containing buildings, including houses, however. As may be predicted, some such instances caused financial or other difficulties to landowners

Correspondence from those landowners who sought assistance from the city Council or the public works committee, where it is preserved in the records, provides some insight into the processes of filling, and what may have been involved when structures were present on the property.
A letter from John Smith to the City Council dated 1861, provides the only detailed evidence in the historical record found so far for the process involved in the deep filling of a property that contained a substantial brick or stone structure.

Smith was employed as a bricklayer in Benalla when he became aware of an order to fill his property located in Alma Street, south Carlton. Smith, though willing to comply with the order, was unable to return to Melbourne to complete the task and was forced to seek Council assistance. His letter to the Council is informative in that it provides a detailed outline of the process of filling a property in an instance where an existing structure was involved, and is all the more of interest in that it appears to describe a process similar to that carried out at the houses unearthed at the Jones Lane/Wesleyan precinct excavations in 2017 (see Section 4.2.2). This involved the removal of floors, windows, doors and all portable structural features, prior to the filling (or partial filling) of the lower storey of the house. Smith’s letter was written in response to an order to fill issued by the Council in October of 1861 (Figure 8). Both are reproduced below.

11 While it is clear that the filling required would be over the floor level of the lower part of the house, it is unclear how high the required filling was to be.
Sir, I received yours of the 13th inst and I was not aware that all the lane had been paved but mine if Mr Thompson had sent me word that he was going to fill it up I would have done mine at the same time it is rather strange he did not inform me off it as he did not do so as he promised me. I have no friend or anyone to look after it. I should like you to look after it if you would be so kind as to look after it you would greatly oblige me and I will pay all expenses and you know best what it wants doing to the place so that there may be no more complaints as I do not want to annoy no one, you will see the summons that you sent had the wrong name signed in it it was James Smith and it should have been John Smith so I hope you will appear in my behalf and tell the Magistrate that I attended to the affairs as soon as I knew about it as the nuisance would not be abated by filling up the lane. I have considered that it would be best to pull up the floors
and take all the joists out and fill it up as it stands, I don't care about making it fit for a tenant to live in you know what it wants doing too and let it by tender the same as your own send me the amount of tender and I will send the money down by the return of post. I will state what I want

First

fill up the right of way and make it same as what is done.

Second

take up the boards and joists and take off the doors also the chimney piece take down and put them in the room above the house. Board up windows and doors with the boards of the floors fill up the inside of the house level with the road and leave the joists in the backyard after filling in the yard also to leave all the steps and stone there is in the yard on the top and not to fill them in leave them so that they can be got to hoping you will be so kind as to comply with my request I have the honour to be your humble servant, John Smith, Bricklayer

PS I am busy at work and I cannot come down and leave my work as it is not often bricklayers have plenty of work to do therefore I cannot neglect it (PROV VPRS 3181/ P0, unit 822).

Judging from historical records viewed for this project, it appears that the majority of landowners complied with land filling orders if they were able, although there were some legal threats made to the Council, as well as at least one instance where it appears that there was an outright refusal to cooperate.

In reference to paragraph in report of 21st uto. With regard to Mathew [Conthes?] land in Block 35, Allot 17, Bourke ward, it will be necessary the usual form of notice should be served on his agent Mr David Lyons. I understand from my [enquiries??] made that Mr Lyons is not willing to spend more than £20 - which the cost of filling up will amount to about £100. Under the circumstances it seems useless to call for tenders without some guarantee of the money being paid to the Corporation...[?] (note from Adams, City Surveyor to City Council 5/11/1868, VPRS 3181/P0, unit 464).

As may be predicted, the requirement to comply with filling does appear to sometimes have depended on status or connections, or a lack thereof:

Letter read from Mr J.J.[?] A'Beckett Bishops Registrar requesting to know if the corporation would construct a culvert under the embankment in front of the Bishops residence for the purpose of
carrying off the water which has accumulated in the garden in consequence of the street having been lately raised above the level of adjoining land.

The town clerk was instructed to reply that the law obliges persons having property abutting upon streets to raise their land to the level of the street but the committee have no objection to allow the Bishop to run a culvert under the embankment in question (A’Beckett 16/7/1857 in VPRS 4037/P0, unit 3).

3.2.1 Financial difficulties with complying with fill orders

As may be expected, complying with the filling orders was for some landowners, a heavy financial burden. Both Richard Hill and Ann Sigsworth, owners and occupiers of wooden houses in Franklin Street, were forced to appeal to the Council for assistance. These appeals for assistance offer some insight into the filling process where less substantial structures were involved.

The 1856 petition of Richard Hill whose wooden house would be ‘almost buried’ by the filling required to raise his land to the newly formed street level indicates that he was able to raise the level of his wooden house above the proposed filling:

To the Worshipful the Mayor of Melbourne and Councilors of the City of Melbourne.

The petition of Richard Hill, Franklyn Street, North Melbourne. That by the improvements now being made at Franklyn Street your petitioners house will be almost buried, the earth being raised as high as the roof.

That your petitioner has been very unfortunate in his Labor at the Goldfields, and has now no further means than would be sufficient for the expense of raising his wooden house by the aid of screws, if the Council would allow the earthwork to be filled in by the officers.

That your petitioner therefore prays that the corporation will charitably direct that the earthwork may be done by your Officers, and save the petitioner from ruin.

The petitioner has asked for the signatures of a few persons to this petition as a guarantee of the truth of it.

That petitioner hopes the equity of this request will be apparent to every member of the corporation will give him as much assistance as he can (VPRS 3181/P0, unit 822).

Hill’s petition was dated April 1856, and was marked ‘granted’ on the 1st of May that year. Interestingly the Melbourne City building registration (MCC registration No 865) records list Richard Hill as building or registering a wooden house in Franklin Street later that year in December of 1856, possibility indicating that
the house-raising operation was not entirely successful, or perhaps caused too much structural damage. The following year Hill built another wooden house, also on Franklin Street (MCC registration 477). Bourke Ward rate book records suggest that the two houses were most likely on the same property — in the 1862 rates, for example, Hill was listed as the owner of two adjacent wood houses each consisting of ‘3 rooms and a skillion’ one at 37 Franklin Street, and the other ‘off Franklin Street’. His property appears to have been located between Adderley and Spencer Streets.

Ann Sigsworth owned a small wooden house towards the western end of Franklin Street, not far from that of Richard Hill. It seems to have been located off the street, probably fronting on to Franklin/Franklin Place, a laneway off Franklin Street between Spencer and Adderly Streets. Bourke Ward rate assessments dating to 1859 and 1862 describe the property as consisting of a ‘wood shanty and yard’ and as a ‘wood shanty’ with two rooms, respectively, which would seem to corroborate Sigsworth’s claims of indigent circumstances. In 1868 Sigsworth received a notice to fill up her land, and was forced, like Hill, to appeal to the Council for assistance to do so:

*Gentlemen, Having received notice (to fill my land up level with Franklin Street) from City Council. I beg leave to state that I am quite unable to do so in consequence of indigent circumstances. The cost of filling up would be much more than the value of my land.*

*Gentlemen, hoping that you will kindly take my case under your consideration as I am a widow and have been for many years.*

*Gentlemen, hoping that you will take my case into your kind consideration, your petitioner will in duty bound ever pray. I beg to remain yours, etc., Ann Sigsworth*

Sigsworth strengthened her case by including the signatures of eight witnesses, John P Fawker MLA amongst them, who were willing to testify that they ‘consider your petitioner (Ann Sigsworth) a person worthy of your kind consideration’ (VPRS 3181/P0, unit 464).

Sigsworth’s appeal appears to have been granted. Rate books indicate that she remained in possession of and lived in the two-roomed wooden house off Franklin Street through the 1860s and her will and probate documents indicate that she retained possession of the property up until her death in 1876 (VPRS 28/P02, unit 51, item 14/826). In this instance it is unclear whether house-raising was required, or whether the filling order was complied with by yard, and perhaps under-floor, filling only.

### 3.2.2 The process of filling vacant land

The City Surveyor’s contract specification books are available for the parts of the 1860s and they provide some information concerning the manner in which filling was expected to be carried out when it fell under
the remit of the City Council (i.e. generally when landowners failed to undertake the filling themselves and failed to comply with a city order to undertake the filling, or they requested that the city undertake the filling on their behalf). The following text outlines the specifications for ‘filing up ground in Allotment 17 Block 32, Smith Ward (Carlton) in the City of Melbourne’:

18 June 1870

1. Contractor shall find all labor tools and materials requisite for the due and full completion of the work.

2. The accompanying plan shows the specifications of each piece of ground to be filled marked A&B respectively and the contractors is to fill up same from its present level to the permanent level of footpath at building line street, being eight inches above the present level of kerb, and sloping from there with a regular fall and properly levelled off to the right of way now in the course of formation on the same allotment.

3. The stuff used for filling must be good sound earth, approved by the City Surveyor, tipped into the hole and each load properly levelled off, the whole being brought to the surface in proper courses...(VPRS 9441/P01, unit 2).

Whether such a process would have been undertaken by landowners carrying out filling works themselves is uncertain. By the same token, it isn’t clear whether the type of fill used by private landowners would necessarily have been of the ‘good sound earth’ required by government contracts. Indications from the results of the Wesleyan site excavations suggest that fill may have been sourced from various locations or sources (Section 4.2.2).

3.2.2.1 The value of fill

What the letters of Ann Sigsworth and Richard Hill suggest is that, apart from any cost associated with raising, altering or losing houses or other structures, a filling order could have relatively severe financial consequences on landholders simply because of the cost of sourcing, and likely carting, fill. It can be reasonably surmised that numerous orders to fill may have resulted in a shortage of fill, or at least a rise in its value. One may also wonder where, in the mid-nineteenth century, prior to the relatively easy availability of mechanical excavation and motorised transportation, landowners could source adequate fill to level their yards.

Information in various of the city Council records, but particularly in the records of the Public Works Committee, make clear that fill was a sought-after commodity in Melbourne of the 1850s and 1860s. There are numerous requests for fill to be provided to landowners from nearby road cuttings for the purposes of
yard filling. In addition to Hill and Sigsworth, for example, an unidentified landowner in Franklin Street, asked the Public Works Committee for fill in 1862:

21 Franklin Street

Sir,

May I be allowed to ask the liberty of taking a few loads of gravel from the cutting at the top of Franklin Street to fill up two rooms caused by the Corporation having risen the road above the rooms of the house... I shall be glad to give you any information if you consent – waiting for/ per? Instructions. [signature not legible\(^\text{12}\)] (14/4/1862, in VPRS 3181/P01, unit 822)

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\(^{12}\) A search through rate records relating to Franklin Street (in both Bourke and Gipps Wards) did not enable us to identify the author of this letter, or the property in question. Although an address of 21 Franklin Street was provided on the letter, the numbering of Franklin Street was at this time inconsistent.
There are also many instances in the Public Works Committee minutes record orders made to the City Surveyor to instruct him to, in turn, instruct road-making contractors to deposit fill excavated from road cuttings on to private property. For example, in October and November of 1856 alone, the following instructions were issued:

City Surveyor instructed to order Mr Campbell to give off Victoria Street as much filling as will be sufficient to fill up the yards of Mr Abercrombie off Swanston Street between A’Beckett and Franklyn Streets (8/10/1856 in VPRS 4037/P0, unit 3).

City surveyor instructed to order contractors H.N. Campbell and Co. to fill up the property of Mr P. Nelan in Swanston St.

City Surveyor instructed to order the contractor for Victoria Street to fill the allotment at the corner of Victoria and Leicester Streets (29/10/1856 in VPRS 4037/P0, unit 3).

The City Surveyor instructed to fill the gully running through blocks 14, 25, 30 and 31 Smith Ward, and that the stuff for such purpose be taken from the works being executed in Russell Street (19/11/1856 in VPRS 4037/P0, unit 3).

Fill excavated from street cuttings from Council work was considered to be the property of the Council, to be utilised as the Council saw fit. Apparently, this was not spelled out in Council contracts until 1856, however, when a disagreement, or a misunderstanding, with a contractor resulted in it being written into future contracts:

Letter read from John Finlay respecting the payment of £50 which he was fined for disposing of stuff from his contract in Lygon Street.

Mr Finlay was called in and acknowledged that he has sold a quantity of fill to persons in North Melbourne.

Resolve that Mr Finlay be paid the £50 and that the City Surveyor in all future specifications, to insert a clause preventing the contractors from disposing of any description of material out of any contract on works carried out under the city Council, under penalty (24/12/1856 in VPRS 4037/P0, unit 3).

It may be that after this point in time, Council began generally to charge landowners for the receipt of fill, or perhaps the requests for fill became overwhelming. In 1857 the Public Works Committee meeting minutes make mention of the appointment of a sub-committee which would have power ‘to direct the disposal of the filling obtained from the King Street contract’ (3/5/1857 in VPRS 4037/P0, unit 3). In the
following week an advertisement was to be placed in the newspapers to request that ‘persons who have been supplied with filling stuff from the King Street contract’ inform the Town Clerk ‘what amounts they have paid for such stuff’ (10/6/1857 in VPRS 4037/P0, unit 3). Whether this was as a result of poor bookkeeping on the part of the committee, or another contractor misunderstanding is not clear.

Another potential source of fill for residents or landowners in Melbourne in the 1850s were the unsold Crown Lands on the city fringe. In early 1855, in response to a request from the Mayor of Melbourne, the Colonial Secretary’s Office sent the following reply:

_In reply to your worship's letter of the 30th Ultimo. I am directed by His Excellency the Lieutenant Governor to inform you that he has been pleased to grant your request that certain citizens residing to the eastward of Elizabeth Street North should be permitted to remove earth from adjoining high unsold Crown Lands provided the surface be left level after the soil is removed_ (J. Moore to the Mayor of Melbourne 31/1/1855, in VPRS 3621/P0, unit 7).

This appears to have resulted in something of a free for all which shortly thereafter had to be brought under control.

_Sir, I have the honor to call your attention to the injury done to the Crown Lands around the City, by persons possessed of permits to remove soil, granted by the City Surveyor obtained nominally for the purpose of filling a yard, but afterwards applied to the detriment of those carters who take licenses from my office to remove loam by competing against them with an article procured at a shorter distance._

_If it is still found desirable to issue permits from the City Surveyor's office, I would suggest that persons should be compelled to take soil from some specified place, which would check the mischief now being done, or that the licenses should be issued solely from this office_ (Powlett, Crown Lands Office to the Mayor of Melbourne 29/6/1855, VPRS 3621/P0, unit 007).

Even the Public Works Committee found itself at times in urgent need of a source of fill. In April of 1855, when work was to go ahead for the formation of Flinders Street, from Russell Street to Wellington Street, on its permanent level, the Public Works Committee sought permission also to commence work on the great hall of the town hall. This provoked some debate at a Council meeting until an explanation for the need to commence the work was given:

_Alderman Hayward explained that all the Public Works Committee at present required was permission to remove the soil and put in the foundation, and the stuff so removed was greatly needed towards the completion of the east end of Flinders Street_ (The Age 3/4/1855).
3.3 Summary of the known reasons and processes of filling in 1850s/1860s Melbourne

The historical research undertaken for this project has revealed that land filling was relatively widespread in the early decades of the post-contact settlement of Melbourne. Records of the filling are available primarily because of the Act which enabled the Council to order landowners to fill their property to the level of adjacent streets, and where this has occurred there are records of the filling orders in the minutes of the Public Works Committee meetings. Some detail concerning the probable impact of filling orders on landowners has been found in other City Council records – in some cases such orders could clearly cause major financial damage to property owners. Evidence in these records also points to fill being a commodity of some value – the idea of which is generally given little consideration in archaeological reporting of early Melbourne.

The known reasons and processes of filling can be summarized as follows:

- The need to level private property by filling was created by a combination of the natural topography of Melbourne and the formation of the city streets. The streets, by necessity, were raised above the natural ground level in low-lying areas, and their formation resulted in the blockage of the natural drainage of the CBD and the inner-city suburbs.
- Act 16 Victoria No 38 enabled the City Council to order the raising of land to the level of adjacent streets.
- The formation of streets, and the setting of permanent street levels appears to have been an ongoing process through the 1850s and 1860s in the CBD and (what is now) the inner city.
- An order to raise land could be for as little as a few inches, to as much as several feet, and the impact on existing structures on the property could range from very little to significant.
- There are clear examples of landowners making preparation to raise their houses above the fill, in other instances property owners were clearly required to more or less bury the lower floor of their house.

The filling events described above are not likely to represent all of the land filling that took place within the CBD study area in the 1850s and 1860s, nor is it probable that these filling events ended in 1870. In addition, it is clear that filling took place outside the CBD in inner-city locations in the 1850s, 1860s, such as Carlton.

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13 Some of the historical references, for example the petition of Richard Hill, indicate that the required depth of the fill was as high as the roof line of a house, suggesting a depth of over 6 feet. Archaeological evidence suggests that filling of 6 to 8 feet occurred at the Jones Lane sites (see Section 4.2).
and West Melbourne, and in later decades. Research undertaken to date provides an indication of the extent and impact of Council-ordered filling events in inner Melbourne, but additional research is required in order to ascertain its full extent.

It is likely, also, that there were instances where landowners filled their properties without the need for Council intervention, and alternative methods of research will be required to determine where these locations may be as they are unlikely to be recorded as filling orders/events in Council records. Some potential methods, identified in the course of the research undertaken for this project, are discussed in section 5.