

**Yarra Planning Scheme Amendment C269yara
Rewrite of local policies**

Panel Report

Planning and Environment Act 1987

4 January 2022

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Yarra Planning Scheme Amendment C269yara

4 January 2022



Lisa Kendal, Chair



Sally Conway, Member



John Roney, Member

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Clause 02.01 (Municipal Planning Statement – Context)

Clause 02.02 (Municipal Planning Statement – Vision)

Clause 02.03 (Municipal Planning Statement – Strategic Directions)

Clause 11.03-1L (Activity centres)

Clause 15.03-1L (Heritage)

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Glossary and abbreviations

ABS	Australian Bureau of Statistics
Activity Centres Report	<i>Activity Centres – Roles and Boundaries</i> , City of Yarra (October 2019)
AFADA	Alphington Fairfield Appropriate Development Association
Affordable Housing Strategy	<i>Building for Diversity – Yarra’s Social and Affordable Housing Strategy</i> , Yarra City Council (November 2019)
BESS	Built Environment Sustainability Scorecard
CASBE	Council Alliance for a Sustainable Built Environment
CHS	Collingwood Historical Society
Climate Emergency Plan	<i>Yarra Climate Emergency Plan 2020-2024</i>
Council	Yarra City Council
CPIP	<i>Cremorne Place Implementation Plan</i> , December 2020
dB/dBA	Decibel/’A’ weighted decibel
DELWP	Department of Environment, Land, Water and Planning
EPA	Environment Protection Authority
FREBCG	Friends of Royal Exhibition Building and Carlton Gardens
GRZ	General Residential Zone
Heritage Database	<i>City of Yarra Database of Heritage Significant Areas</i>
Housing Strategy	<i>Yarra Housing Strategy</i> , City of Yarra (September 2018)
Industrial Heritage Policy Report	<i>Yarra Industrial Heritage Policy</i> , GJM Heritage
LAC	Local Activity Centre
Landmarks and Views Assessment	<i>Landmarks and Views Assessment</i> , Ethos Urban (October 2019)
Landmarks Policy Review	<i>Review and Development of the City of Yarra Landmarks Policy</i> , Ethos Urban (March 2018)

Lmax (dB) or Lmax (dBA)	The 'A' weighted maximum sound pressure level of an event. 'A' weighted – a frequency weighting representing the human response to sounds and its variation with frequency. Source: Noise Guideline
MAC	Major Activity Centre
MCMC	Merri Creek Management Committee
MEP	Major Employment Precinct
MPS	Municipal Planning Strategy
MSS	Municipal Strategic Statement
NAC	Neighbourhood Activity Centre
Nature Strategy	<i>Nature Strategy: Protecting Yarra's Unique Biodiversity (2020-2024)</i>
NIM	Net Internal Migration
Noise Discussion Report	<i>Noise and Vibration Considerations Discussion Report</i> , SLR Consulting Pty Ltd
Noise Guidelines	<i>Guidelines – Managing Noise Impacts in Urban Development</i>
NOM	Net Overseas Migration
NRZ	Neighbourhood Residential Zone
NSW Interim Guideline	<i>Development near Rail Corridors and Busy Roads-Interim Guideline</i> , Department of Planning, State Government of NSW, 2008
PE Act	<i>Planning and Environment Act 1987</i>
PFN	Protect Fitzroy North
Planning Scheme	Yarra Planning Scheme
PPF	Planning Policy Framework
Practitioner's Guide	<i>A Practitioner's Guide to Victorian Planning Schemes</i>
QPHPTG	Queens Parade Heritage, Planning and Traders Group
Residential Heritage Policy Review	<i>Residential Heritage Policy Review</i> , Context (31 October 2019)
Riseheath	Riseheath Pty Ltd
SEES	<i>Yarra Spatial Economic and Employment Strategy</i> , SGS Economics & Planning (2018)
SRS	Strategic Redevelopment Sites
UEM Sunrise	UEM Sunrise (Collingwood Development) Pty Ltd

VCAT	Victorian Civil and Administrative Tribunal
VIF	Victoria in Future
VPP	Victoria Planning Provisions
WHEA	World Heritage Environs Area
YCAN	Yarra Climate Action Now
YPC	Yarra Planning Coalition

Overview

Amendment summary

The Amendment	Yarra Planning Scheme Amendment C269yara
Common name	Rewrite of local policies
Brief description	<p>The Amendment proposes to:</p> <ul style="list-style-type: none"> - update local planning policies by implementing the Yarra Planning Scheme Review (2014) and other strategic work - translate local policies into the new Planning Policy Framework introduced through Amendment VC148.
Subject land	All land in the City of Yarra (see Figure 1)
Planning Authority	City of Yarra
Authorisation	Conditional authorisation received on 7 July 2020
Exhibition	20 August to 4 December 2020
Submissions	429 submissions, including 53 late submissions (see Appendix A)

Panel process

The Panel	Lisa Kendal (Chair), Sally Conway and John Roney
Supported by	Amy Selvaraj, Senior Project Officer, Planning Panels Victoria
Directions Hearing	Videoconference, 27 August 2021
Panel Hearing	Videoconference, 5, 6, 7, 8, 11, 12, 14, 15, 18, 20, 21, 22, 25, 27, 28 and 29 October 2021
Site inspections	Unaccompanied, 15 and 16 November 2021
Parties to the Hearing	See Appendix B
Citation	Yarra PSA C269yara [2022] PPV
Date of this report	4 January 2022

Executive summary

Yarra Planning Scheme Amendment C269yara (the Amendment) is a complete rewrite and update of local policy in the Yarra Planning Scheme. It implements the findings of the Yarra Planning Scheme Review and translates the Yarra Planning Scheme into the new Planning Policy Framework introduced by the Victorian State Government.

It is a significant and extensive Amendment which:

- introduces a Municipal Planning Strategy
- undertakes a policy neutral translation of seven policies
- translates 19 existing policies with new content
- introduces seven new local policies
- translates two operational provisions with new content, and adds one new operational provision.

The Amendment was exhibited from 20 August to 4 December 2020 and received 429 submissions. Issues were raised in relation to the majority of proposed planning provisions. A number of issues were outside of the scope of the Amendment.

Many submissions acknowledged the huge volume of work undertaken by Council in preparing the Amendment, and were of the view that the material was presented to the community in a clear and accessible manner. The Panel commends Council for its comprehensive strategic work program and acknowledges the concerted effort made by Council to respond to issues raised in submissions in proposed post exhibition changes to the Amendment documents.

The Panel reviewed a large volume of information including all submissions and evidence, regardless of whether they are specifically mentioned in the report, to reach its conclusions.

Strategic justification

The Panel considers the Amendment is broadly consistent with the *Planning and Environment Act 1987*, and Plan Melbourne, is supported by and implements the relevant sections of the Planning Policy Framework and has generally been prepared in accordance with relevant Ministerial Directions and Practice Notes. The Amendment is consistent with the principles of net community benefit as it will provide streamlined and updated policy into the Planning Scheme, and will address many issues of concern and interest to the community.

The Amendment has adequately taken into consideration the impacts of COVID-19, accepting that the impacts of the pandemic are still being understood and future adjustments may be required.

The Panel concludes the Amendment is well founded and strategically justified, and should proceed subject to addressing the more specific issues raised in submissions as discussed in this Report.

Building height

The terms low-rise, mid-rise and high-rise are relative rather than prescriptive. It is acceptable to have a relative height framework within planning policies to help direct Council's overarching vision.

The term 'mid-rise' may include a range of heights appropriate to the physical and strategic context of the location and this is in accordance with good site responsive built form planning. The

proposed policy will create a limit of mid-rise in specified locations and clearly identify that high-rise is not acceptable unless in accordance with a Design and Development Overlay.

The metrics of building height controls and whether they are mandatory or discretionary should be found in the applicable zoning or overlay provisions.

Activity centres

The proposed activity centre hierarchy is based on sound research and is generally consistent with State and metropolitan planning policy. It is appropriate to reclassify the five small existing Neighbourhood Activity Centres to a new third tier of activity centre, namely Local Activity Centres.

The proposed designation of each activity centre is appropriate. The methodology used to define activity centre boundaries has generally been satisfactory and consistent with *Planning Practice Note 58 - Structure Planning for Activity Centres*, and it is appropriate to define the boundaries of activity centres with more precision than is shown in the current Planning Scheme.

In relation to the boundaries of specific activity centres:

- The Rathdowne Street Local Activity Centre boundary should be modified for the properties around the intersection of Rathdowne Street and Richardson Street.
- It is not appropriate to include the mixed use land north of Richmond Station within the Swan Street Major Activity Centre until further strategic work has been completed that investigates:
 - whether the mixed use land forms part of the Swan Street Major Activity Centre or some other precinct
 - the boundary of the precinct
 - strategies in local policies to help guide the development of the area
 - appropriate built form controls for the precinct.
- The proposed boundaries of the Queens Parade Local Activity Centre, Johnson Street Local Activity Centre and Heidelberg Road Local Activity Centre are acceptable.
- It is inappropriate to extend the northern boundary of the Rathdowne Street NAC.

The proposed objectives and strategies in Clause 11.03-1L (Activity centres) are generally reasonable and appropriate, subject to recommendations in this Report. All of the Major Activity Centres and the majority of Neighbourhood Activity Centres have proposed, interim or permanent DDO schedules that deal with built form controls for these centres. It is appropriate to ensure that mid-rise development in Major Activity Centres and Neighbourhood Activity Centres is subject to the preparation of a Design and Development Overlay to enable a detailed and comprehensive suite of built form controls (including building heights) to respond to the character of the centre and the surrounding area.

Housing

The residential growth framework is based on sound forecasts for housing demand that have considered the implications of the COVID-19 pandemic, and the potential supply of housing is based on acceptable estimates of capacity. The Amendment allows for a potential supply of housing across a range of locations to support housing demand requirements to 2036.

The four proposed housing change areas classifications are generally consistent with the guidance provided in *Planning Practice Note 90 - Planning for Housing* and take into account neighbourhood or precinct characteristics in assigning housing change areas to precincts.

Proposed Clause 16.01-2L (Location of residential development) includes character strategies for each housing change area which will allow for adequate consideration of neighbourhood character in assessing development proposals (in addition to zone and overlay controls), with the exception of the incremental change area which is considered insufficient.

It is not appropriate to remove the character strategy from the incremental change area. The wording of proposed Clause 16.01-2L (Location of residential development) should be strengthened to consider neighbourhood character in incremental change areas.

There is a need to undertake further activity centre planning for those activity centres not covered by the Design and Development Overlay and where the incremental change category has been applied to ensure valued character is protected as modest growth occurs.

Residential development should be supported in appropriate locations in activity centres in accordance with State policy. The proposed housing change area designations of the activity centres are generally consistent with the intended housing role for the activity centres, subject to the recommendations in this Report. The Amendment adequately balances the tension between housing growth and the commercial and cultural role of activity centres.

In relation to specific sites:

- The following sites should remain in the housing change categories which applied at exhibition:

Incremental change

- Nicholson Street Neighbourhood Activity Centre (west side)
- 6-14 Ramsden Street, Clifton Hill
- 2-12 Garryowen Lane and 35 Rose Street, Fitzroy
- Dight Street (south of Vere Street) and 37-43 Vere Street, Collingwood¹
- Land between Gipps Street, Park Street, Stanton Street and the train line, Abbotsford
- Land on the west side of Coppin Street, from the Wall Street intersection to the Dame Nellie Melba Park, Richmond²

Moderate change

- 133-137 Victoria Parade, Fitzroy
- 53 Hoddle Street, Collingwood
- 288-296 Johnston Street, Abbotsford
- Porta Site, 224-256 Heidelberg Road, Fairfield
- Heidelberg Road, Alphington (between Parkview Road and Como Street)
- 84-104 Johnston Street, Fitzroy

High change

- AMCOR / Alphington Paper Mill site, 626 Heidelberg Road, Alphington.
- The housing change categories for the following sites should be amended to reflect their role in the provision of future housing growth:

Minimal change

- Rathdowne Street Neighbourhood Activity Centre
- 104-118 Queens Parade, Fitzroy North
- 9-19 Wall Street and 2-16 Wall Street, Richmond³

¹ Referred to in Council's submissions as Campbell Street, Collingwood

² Part of the area referred to in Council's submissions as Malleeson and Wall Streets, Richmond

Incremental change

- Precinct 4, Queens Parade Neighbourhood Activity Centre
- 1 Turner Street, Abbotsford

Moderate change

- 39-47 Lithgow Street, Abbotsford.

Clause 16.1-3L (Housing diversity) adequately supports the range of different housing structures required to meet the needs of the Yarra community.

In relation to Clause 16.01.4L (Housing affordability):

- the reference to key workers should be removed
- policy guidelines supporting an affordable housing contribution are appropriate but the use of the term “the capacity” should be revised
- provision of ten percent affordable housing is justified through the Affordable Housing Strategy and there is no current rationale to alter this amount
- social housing falls within the definition of affordable housing and is therefore covered by the proposed policy guidelines.

Employment precincts

The *Yarra Spatial Economic and Employment Strategy* refers to intensification of employment land rather than consolidation and the term consolidation can be removed from the proposed Clause 17.01-1L (Economic development).

Council is actively progressing the Cremorne Place Implementation Plan and the actions arising from this plan include a review of current planning policy and controls which apply to Cremorne.

There is no strategic justification set out in the *Yarra Spatial Economic and Employment Strategy* to include the Commercial 1 Zone strip along Hoddle Street in the Gipps Street Major Employment Precinct and it should be removed.

Heritage

The post exhibition objectives and strategies proposed by Council in Clause 15.03-1L (Heritage) are generally appropriate subject to:

- modifying the strategy regarding partial demolition of a heritage building to provide for greater flexibility
- deleting the section ‘Archaeological sites’
- changing all strategies commencing with the word ‘require’ to an alternative term consistent with the Practitioner’s Guide.

The proposed objectives and strategies in Clause 15.01-1L (Signs in a Heritage Overlay) as exhibited are generally appropriate subject to:

- modifying the objective “to promote signs that conserve and enhance the significance of a heritage place”
- modifying the policy guideline to “Discouraging the following signs in heritage places: ...”

The objective and strategies in Clause 15.01-1L (Signs in a Heritage Overlay) should be relocated to within Clause 15.03-1L (Heritage).

³ Part of the area referred to in Council’s submissions as Malleeson and Wall Streets, Richmond

Clause 15.03.1L (World Heritage Environs Area) is a policy neutral translation of Clause 22.14 in the current Planning Scheme. It would be inappropriate to modify the exhibited Clause 15.03-1L (World Heritage Environs Area) as part of the Amendment when a separate process is underway that is considering a detailed review of broader issues associated with the precinct.

It is appropriate to include definitions of the heritage significance of places in an Incorporated Document. The name of the Incorporated Document should be modified to *City of Yarra Database of Heritage Significant Areas, July 2021* to reflect the current name in the Planning Scheme.

Landmarks

There is generally a sound strategic basis for the proposed new policy Clause 15.01-2L (Landmarks). The aim of the policy is to protect views to the identified landmarks not to protect the landmark itself. The proposed landmarks and nominated views are appropriate subject to recommended changes in this Report.

Secondary views and additional landmarks should not be included in the policy as part of this Amendment. The Landmarks and Views Assessment report should not be included as a policy guideline or Background document listed in the Schedule to Clause 72.08.

Noise

Clause 13.07-1L (Interfaces and amenity) responds to an identified policy gap, is strategically justified and policy triggers are appropriate.

Clause 13.07-1L (Interfaces and amenity) and the *Guidelines – Managing noise impacts in urban development* should be amended in response to comments and advice from the Environment Protection Authority, as agreed by Council and noise expert Mr Antonopoulos. Changes include updating references to regulatory documents, replacing the wording ‘design targets’, more explicitly promoting building siting and internal layout as primary considerations to minimise or reduce noise and including a glossary in the Noise Guidelines.

Recommendations are made in relation to content and drafting of the Amendment documents.

Environmentally Sustainable Development

Clause 15.02-1L (Environmentally Sustainable Development) should be amended to align with the Council Alliance for a Sustainable Built Environment (CASBE) preferred version subject to using the verb ‘encourage’ instead of ‘achieve’ in the strategy relating to best practice, and retaining the word ‘comparable’ in the expiry clause.

Additional or strengthened ESD provisions may be considered by Council through a separate process. The publication date of BESS should be removed from the Schedule to Clause 72.08 (Background Documents).

Form and content

It is the role of the Panel to review form and content of the Amendment as it relates to specific and general issues raised in submissions, and with regard to planning guidance on drafting.

Many drafting inconsistencies have been addressed by Council. Before adopting the Amendment, drafting should be reviewed to ensure consistency with drafting guidance and to maximise clarity and legibility of the planning provisions without changing the intent.

The Municipal Planning Strategy is based on strategic planning work completed by Council and is generally supported. It has been prepared in accordance with the required format, subject to the minor administrative changes proposed by Council.

The range of changes to the Municipal Planning Strategy proposed by Council are generally acceptable except that:

- Clause 02.01 should not include reference to the document *Yarra Council's Climate Emergency Plan 2020-2024*
- Clause 02.04 should not designate the land located within the Mixed Use Zone and bound by Botherambo Street, Tanner Street, Punt Road and Stewart Street in the Swan Street Activity Centre. The area should be designated 'Land subject to future strategic work'.

Other issues

The Report addresses a range of other issues including:

- Environmental and landscape values
- Overshadowing
- Licensed premises
- Caretaker's house
- Flood management
- Sustainable transport and car parking
- Open space
- Development contributions
- Water sensitive urban design
- Waste.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Yarra Planning Scheme Amendment C269yara be adopted as exhibited subject to the following:

Municipal Planning Strategy

- 1. Amend Clause 02.01 (Context), Clause 02.02 (Vision) and Clause 02.03 (Strategic directions) in accordance with the Panel preferred versions in Appendix E.**
- 2. Amend Clause 02.04 (Strategic Framework Plan) to:**
 - a) show land within the Mixed Use Zone north of the Richmond Station bound by Botherambo Street, Tanner Street, Punt Road and Stewart Street as not included within the Swan Street Activity Centre, and show the area as designated 'Land subject to future strategic work'**
 - b) designate Fitzroy High School as 'Public Use'**
 - c) change the boundary of the part of the Rathdowne Street Local Activity Centre around the intersection of Rathdowne Street and Richardson Street to show only the properties on the north east and south east corners of the intersection within the Activity Centre**
 - d) modify the legend to refer to 'Low Rise Residential' instead of 'Low Scale Residential'.**

Clause 11 (Settlement)

3. Amend Clause 11.03-1L (Activity centres) in accordance with the Panel preferred version in Appendix E.
4. Amend the plans in Clause 11.03-1L (Activity centres):
 - a) for the part of the Rathdowne Street Local Activity Centre around the intersection of Rathdowne Street and Richardson Street to show only the properties on the north east and south east corners of the intersection within the activity centre.
 - b) for the Swan Street Activity Centre to show the land within the Mixed Use Zone north of Richmond Station bound by Botherambo Street, Tanner Street, Punt Road and Stewart Street as not in the Swan Street Activity Centre but designated 'land subject to further strategic work'.
 - c) to improve the general clarity of the images and provide greater certainty about the location of specific activity centres in circumstances where multiple activity centres are shown on the same plan.

Clause 12 (Environmental and landscape values)

5. Amend Clause 12.01-1L (Biodiversity) to modify the following strategies to state:
 - a) *Support development that creates habitats for biodiversity with a balance of native and non-nativespecies (with a preference of native over non-native), through landscaping, tree planting and the incorporation of green roofs and walls.*
 - b) *Promote the planting of indigenous trees and understorey vegetation in open spaces and along roads and railways to provide connections between habitats within Yarra and neighbouring municipalities.*
 - c) *Restore habitat values.*
6. Amend Clause 12.03-1L (Yarra River, Darebin and Merri Creek corridors) to:
 - a) modify the first strategy to state:
 - *Ensure development adjacent to the Yarra River, Darebin Creek and Merri Creek waterways:*
 - *Provides a landscaped buffer with indigenous vegetation between the waterway and the development.*
 - *Provides opportunities for walking and cycling paths.*
 - *Maintains sightlines to the water corridor from the public realm.*
 - *Minimises the visual intrusion of development when viewed from the waterway corridors and adjacent public open space, bicycle and shared paths and bridge crossings.*
 - b) Delete the final strategy which states "*Support development that creates or enhances public access to the Yarra River*".

Clause 13 (Environmental risks and amenity)

7. Amend Clause 13.07-1L (Interfaces and amenity) to:
 - a) update the wording in accordance with Council's 'Part C version' (Document 209) with updated references to regulatory documents and replacing the wording 'design targets'

- b) delete policy guidelines relating to maximum noise levels, technical directions about assessment, noise masking, other measures and the requirement for acoustic reports and waste management plans
 - c) move the strategy relating to hours of operation under the heading 'Policy Guidelines' and amend the wording to state:
 - *Limit the hours of operation for a use proposed in a residential zone (except the Mixed Use Zone) to 8am to 8pm.*
 - d) delete *Guidelines – managing noise impacts in urban development* from under the heading 'Policy Guidelines'
 - e) add a heading 'Policy Documents' and add *Guidelines – managing noise impacts in urban development* and insert final version date.
8. Review the drafting of policy guidelines in Clause 13.07-1L (Licensed premises) before adopting the Amendment, including correcting the spelling of the policy title.
9. Abandon Clause 13.03-1L (Flood management).

Clause 15 (Built environment and heritage)

10. Delete Clause 15.01-1L (Signs in a Heritage Overlay) and relocate the provisions to within Clause 15.03-1L (Heritage).
11. Adopt Council's 'Part C version' of Clause 15.01-1L (Urban design) and Clause 15.01-2L (Building design) as they relate to overshadowing, subject to:
- a) deleting the proposed strategies from Clause 15.01-1L (Urban design) regarding overshadowing of footpaths
 - b) retaining the policy guideline in Clause 15.01-2L (Building design) regarding the overshadowing of footpaths as exhibited.
12. Amend Clause 15.01-2L (Building design) to:
- a) revise the second strategy in under the heading 'Building heights' to state:
 - *"Ensure that development reflects the predominant low-rise character of the area, except in the areas below where building heights should respond to the physical and strategic context of the site:
..."*.
 - b) revise the first dot point in the second strategy in under the heading 'Building heights' to state:
 - *"Major and neighbourhood activity centres (as shown on the Strategic Framework Plan in Clause 02.04-1 and Clause 11.03-1L) where a Design and Development Overlay applies.*
 - *..."*
 - c) revise the first strategy under the heading 'Mid-rise development' to state:
 - *"Direct mid-rise development to the following locations:
• Appropriate locations within major and neighbourhood activity centres where a Design and Development Overlay applies, major employment precincts, commercial and industrial land (as defined in Clauses 02.01 and 11.03-1L).*
 - *..."*.

13. Amend Clause 15.01-2L (Landmarks) under the heading 'Strategies' to:

- a) modify the second strategy to state *"Site, scale and setback new development to avoid encroachment upon views to the identified significant elements of landmarks in Table 1."*
- b) modify the third strategy to state *"Provide adequate setback and building separation to maintain clear sky between the identified significant elements of the landmark in Table 1 and new development."*
- c) include 'Table 1: Landmark primary viewpoints and significant elements' under the last strategy
- d) modify Table 1 to:
 - change the heading in Column 3 to refer to 'Significant elements'
 - St Lukes Church – delete the second view in Column 2
 - Former Dimmey's Store – modify the second view in Column 2 to state *'Northwest corner of Stewart and Swan Streets Intersection'*
 - Fitzroy Town Hall – modify the third view in Column 2 to state *'Northwest corner of the intersection of Kent Street and Moor Street'*
 - Pelaco Sign – delete the first and second views in Column 2
 - Skipping Girl – modify the second view in Column 2 to state *'Entry to City of Yarra from the east (Victoria Street footpath, south side)'*
 - Nylex Sign – delete Column 1, 2 and 3.

14. Amend Clause 15.01-2L (Landmarks) to:

- a) delete the heading 'Policy Guidelines'
- b) delete the words 'Consider as relevant: *The City of Yarra Landmark and Views Assessment* (Urban Ethos, October 2019).

15. Amend Clause 15.02-1L (Environmentally Sustainable Development) to align with Council's 'Part C version' subject to:

- using the verb 'encourage' instead of 'achieve' in the strategy relating to best practice to state *"Encourage Best Practice environmentally sustainable development:..."*
- retaining the word 'comparable' in the expiry clause.

16. Amend Clause 15-03-1L (Heritage) in accordance with the Panel preferred version in Appendix E.**Clause 16 (Housing)****17. Amend Clause 16.01-2L (Location of residential development) to:**

- a) revise the first objective to state:
 - *To direct the majority of new housing development to high and moderate change locations within a major or neighbourhood activity centre or major regeneration area (as shown on the Strategic Framework Plan in Clause 02.04).*
- b) revise the second dot point of the third strategy (incremental change areas) under the second objective to state:
 - *That respects the fine-grain subdivision pattern, neighbourhood or streetscape character and identified heritage significance.*
- c) revise the fourth strategy under the second objective to state:

- *Limit housing growth in minimal change areas and incremental change areas outside activity centres.*

18. Amend the housing change area maps in proposed Clause 16.01-2L (Location of residential development) to show the following sites within the categories listed below:

- a) **Minimal change**
 - Rathdowne Street Neighbourhood Activity Centre
 - 104-118 Queens Parade, Fitzroy North
 - 9-19 and 2-16 Wall Street, Richmond
- b) **Incremental change**
 - Precinct 4, Queens Parade Neighbourhood Activity Centre
 - 1 Turner Street, Abbotsford
- c) **Moderate change**
 - 39-47 Lithgow Street, Abbotsford.

19. Amend Clause 16.01-4L (Housing affordability) to:

- a) revise the first objective to state:
 - *To facilitate the provision of affordable housing and social housing (public and affordable community housing), including new social housing and upgrades to existing social housing.*
- b) revise the policy guidelines to:
 - *Consider as relevant:*
 - *Provision of a minimum of ten per cent affordable housing for a rezoning to residential use.*
 - *Provision of a minimum of ten per cent of affordable housing for a major residential development of 50 or more dwellings, unless affordable housing has been provided as part of an earlier rezoning of the site.*

Clause 17 (Economic development)

20. Amend the third strategy in proposed Clause 17.01-1L (Employment) under the heading Cremorne and Gipps Street major employment precincts to state:

- *Encourage the intensification of employment land in Yarra's major employment precincts.*

Clause 18 (Transport)

21. Amend Clause 18.02-1L (Sustainable transport) to:

- a) remove the strategy under the heading 'Walking' which states *"Support the upgrade and establishment of paths along the Yarra River, Merri Creek and Darebin Creek and to neighbouring municipalities as identified on the Strategic Framework Plan in clause 02.04"*.
- b) relocate the strategy from under the heading 'Cycling' to the heading 'Sustainable transport' which states *"Support the upgrade and establishment of paths and waterway crossings along the Yarra River, Merri Creek and Darebin Creek and to neighbouring municipalities as identified on the Strategic Framework Plan in clause 02.04"*.
- c) remove the date reference to BESS in the policy guidelines under the heading 'Cycling'.

- 22. Amend Clause 18.02-4L (Car parking) to remove the date reference to BESS in the policy guidelines.**

Clause 19 (Infrastructure)

- 23. Amend Clause 19.02-6L (Open space) to:**

- a) replace the heading 'Public open space' with 'Open space'
- b) reword the objective to state:
 - *To protect and enhance existing public open space and increase the quantity and quality of open space and provide a linked network that meets existing and future community needs.*
- c) delete the first and third strategies.

- 24. Amend Clause 19.03-2L in accordance with Council's 'Part C version' to:**

- a) change the title from 'Development contributions' to 'Infrastructure contributions'
- b) remove the first strategy.

- 25. Amend Clause 19.03-3L (Water sensitive urban design) to:**

- a) relocate measures to improve storm water quality and prevent litter being carried off from under the heading 'Strategy' to under the heading 'Policy guidelines' and revise the wording to state:
 - *"Using measures to prevent litter being carried off-site in stormwater flows ..."*
- b) remove the strategy and policy guideline referencing the *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999).

- 26. Amend Clause 19.03-5L (Waste) to add the following strategy:**

- a) *Where possible, encourage waste and recycling facilities are sensitively and discreetly located.*

Schedule to Clause 72.04 (Documents incorporated in this planning scheme)

- 27. Amend the Schedule to Clause 72.04 (Documents incorporated in this planning scheme) to update the name of *City of Yarra Review of Heritage Overlay Areas 2007 Appendix 8, Revised September 2019* to *City of Yarra Database of Heritage Significant Areas, July 2021*.**

- 28. Amend the Schedule to Clause 72.04 (Documents incorporated in this planning scheme) to update the date of *Guidelines – managing noise impacts in urban development*.**

Schedule to Clause 72.08 (Background documents)

- 29. Review and update the Schedule to Clause 72.08 (Background documents) to ensure it contains an accurate list of background documents before adoption.**

- 30. Update the Schedule to Clause 72.08 (Background documents) to include the Amendment number for each document.**

- 31. Amend the Schedule to Clause 72.08 (Background documents) to update the date of the *Noise and Vibration Considerations Discussion Report*.**

- 32.** Remove the date from the reference to *Built Environment Sustainability Scorecard 'BESS'* (Council Alliance for a Sustainable Built Environment 'CASBE') in the Schedule to Clause 72.08 (Background documents), in accordance with Council's preferred 'Part C version'.
- 33.** Amend the Clause 72.08 (Background documents) Schedule to delete:
- a) *The City of Yarra Landmarks and Views Assessment* (Ethos Urban, October 2019)
 - b) *Parking Management Strategy Action Plan 2013 – 2015*
 - c) *Water Sensitive Urban Design Guidelines for City of Yarra Works* (revised February 2016)
 - d) *Waste Minimisation and Resource Recovery Strategy 2018-2022*.

Incorporated documents

- 34.** Amend the following definitions of significance in the Incorporated Document *City of Yarra Database of Heritage Significant Areas, July 2021* to state:
- a) Not Contributory: Not contributory to the identified cultural values of the heritage overlay area as stated in the Statement of Significance.
 - b) Contributory: Contributory to the identified cultural values of the heritage overlay areas as stated in the Statement of Significance.
 - c) Individually Significant: A heritage place in its own right. Where an individually significant place is also part of a broader heritage precinct, the individually significant place may also be contributory to the broader precinct.
 - d) Victorian Heritage Register: Included in the Victorian Heritage Register as aesthetically, archaeologically, architecturally, culturally, historically, scientifically, and/or socially significant at the State level.
- 35.** Amend the *Guidelines – managing noise impacts in urban development*, in accordance with the changes proposed by Council in its post exhibition 'Panel version' of the document (Document 70), and:
- a) update the date on the cover page
 - b) update section and sub section numbering
 - c) include all relevant technical directions about assessment, noise masking and other measures under the heading 'Policy Guidelines', including any addition requirements, if any, included in the exhibited Clause 13.07-1L (Interfaces and amenity)
 - d) replace "*The Explanatory Report for the original Amendment states...*" with "*The Explanatory Report for Amendment VC120 states...*" in new Section 6 Music Noise, Section 6.1 Background information,
 - e) include an explanation of the relevance and relationship with Planning Practice Notes 81 and 83
 - f) amend the wording of new Section 8.1.2 Sleep Disturbance to state "*Noise from operation of car-park equipment should be designed to comply with sleep disturbance criteria targets outside openable windows of bedrooms of nearby dwellings. Noise levels should not be in excess of 65 dBA Lmax.*"
 - g) include a reference to relevant VCAT cases being relied on to establish standards or appropriate noise levels in the bibliography.

General

- 36.** Review the Amendment documents to ensure consistency with guidance on drafting.

37. Remove the strip of land along Hoddle Street zoned Commercial 1 Zone, between Victoria Parade and Hood Street, Collingwood from the Gipps Street Major Employment Precinct in the Amendment documents.

Further recommendations

The Panel makes the following further recommendations:

- Amend the Housing Strategy to change the:
 - incremental change map on page 71 to delete the erroneous inclusion of the Commercial 1 Zone strip of land along Hoddle Street, including land at 53 Hoddle Street, Collingwood
 - housing changes areas in accordance with the recommendation in this Chapter.
- Update the *Yarra Spatial Economic and Employment Strategy* to remove the Commercial 1 Zone strip of land along Hoddle Street between Victoria Parade and Hood Street, Collingwood from the Gipps Street Major Employment Precinct.
- Undertake further activity centre planning for those activity centres not covered by a Design and Development Overlay and where the incremental change category has been applied to ensure neighbourhood character is protected.
- Amend the *Noise and Vibration Considerations Discussion Report* in accordance with the changes proposed by Mr Antonopoulos and to include:
 - an explanation of the relevance and relationship with Planning Practice Notes 81 and 83
 - a reference to relevant Victorian and Civil Administrative Tribunal cases being relied on to establish standards or appropriate noise levels in the bibliography.

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of Yarra Planning Scheme Amendment C269yara (the Amendment) is to rewrite and update local policy in the Yarra Planning Scheme (Planning Scheme).

The Amendment will implement the Planning Scheme Review and translate the Planning Scheme into the new Planning Policy Framework (PPF) introduced through the State Government's Smart Planning Program.

Specifically, the Amendment proposes to:

- introduce a Municipal Planning Strategy (MPS) at Clause 02
- introduce new and revised local policy content into the PPF
- replace the Schedules to Clause 52.28 (Gaming) and the Clause 72.04 (Documents incorporated in this planning scheme) with new schedules
- introduce new Schedules to Clause 72.08 (Background documents) and Clause 74.01 (Application of zones, overlays and provisions).

The proposed structure of the MPS is summarised in Table 1, and the propose structure of the local policies and new schedules is summarised in

Table 2.

Appendix D shows whether the proposed policy is new or a neutral translation of current policy.

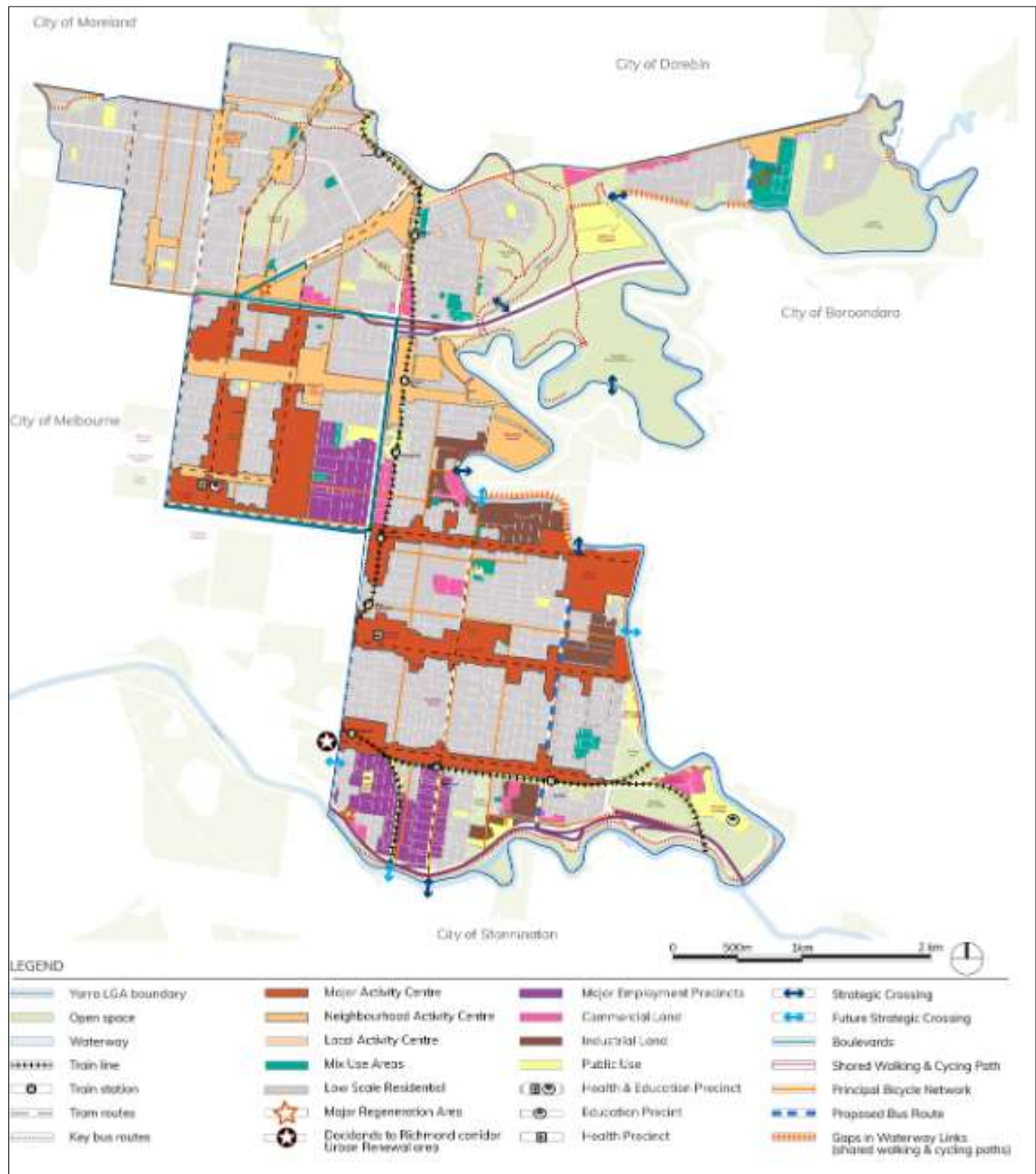
The Amendment applies to all land within the City of Yarra, which is shown in the Strategic Framework Plan of the MPS (see Figure 1).

Table 1 Proposed MPS Structure

New Clause	Content
Clause 02.01 (Content)	Describes the Planning Scheme's policy foundation, based on the municipality's location and regional context, history, assets, strengths, key attributes and influences. It is based on updated data, adopted council strategies and <i>Plan Melbourne 2017-2050: Metropolitan Planning Strategy</i> (2017).
Clause 02.02 (Vision)	Establishes a vision for Yarra to be a vibrant, liveable and sustainable inner-city that the community can be proud of. The vision sets out the spatial response to the Council Plan vision.
Clause 02.03 (Strategic directions)	Derived from adopted strategies across Council and strategic work completed in preparing the draft planning policy. It provides Yarra's response to the implementation of Plan Melbourne, the metropolitan planning strategy.
Clause 02.04 (Strategic Framework Plan)	A spatial plan that expresses the strategic framework for the municipality.

Source: Explanatory Report

Figure 1 City of Yarra - Strategic Framework Plan



Source: Clause 02.04 (Strategic Framework Plan), exhibited version

Table 2 **Proposed local policies and new schedules**

New Clause	Amendment content
Clause 11 (Settlement)	<p>Introduces policy that defines Yarra's hierarchy of activity centres and sets out the vision for each centre consistent with its capacity.</p> <p>Redrafts the existing Victoria Street East policy.</p>
Clause 12 (Environmental and landscape values)	<p>Retains biodiverse landscapes and promotes development that provides habitats for biodiversity and links between habitats.</p> <p>Prevents intrusion of development and additional overshadowing of the waterways at the winter solstice.</p> <p>It includes policy on improving access to the river and providing recreation opportunities and cycle and walking paths.</p>
Clause 13 (Environmental risks and amenity)	<p>Introduces policy to ensure new development mitigates and adapts to climate change and reduce flood risks.</p> <p>Updates existing policy to manage interface issues between residential development and noise generating uses.</p> <p>Translates existing policy to manage the impacts of licenced premises.</p>
Clause 15 (Built environment and heritage)	<p>Streamlines existing urban design policy and divides it between building design and urban design.</p> <p>Introduces policy on equitable development.</p> <p>Strengthens landmark policy by identifying exactly where the key view lines are and which elements of the view to the landmark are to be protected.</p> <p>Translates and updates environmentally sensitive design policy.</p> <p>Strengthens existing heritage policy by introducing policy on commercial and former industrial heritage.</p> <p>Translates existing World Heritage Environs Area policy.</p> <p>Updates signs policy and splits heritage signs from general signs.</p>
Clause 16 (Housing)	<p>Introduces hierarchy of minimal, incremental, moderate and high change areas for housing growth.</p> <p>Seeks diverse housing for families and share households to offer better housing choices.</p> <p>Facilitates provision of new and upgraded social and affordable housing.</p>
Clause 17 (Economic development)	<p>Maintains and grows Cremorne and Gipps Street, Collingwood employment areas.</p> <p>Seeks good amenity for workers and promotes affordable and co-working spaces for the creative industries.</p> <p>Supports high quality retail development that sustains activity centres.</p> <p>Promotes Yarra as a tourism, arts and cultural destination.</p>

New Clause	Amendment content
Clause 18 (Transport)	<p>Reinforces the need for structure plans to deliver improved safety and connectivity for pedestrians and cyclists and improve access to public transport.</p> <p>Promotes sustainable travel by introducing a transport hierarchy that favours walking, cycling and public transport over car based transport.</p> <p>Identifies in what circumstances a parking reduction and car sharing will be considered.</p>
Clause 19 (Infrastructure)	<p>Identifies St Vincents/ACU and Epworth as Yarra's health and education precincts.</p> <p>Protects existing open space and seeks to increase the quantity and quality of open space that meets existing and future needs.</p> <p>Seeks development contributions to fund the infrastructure and open space needed to meet future demand.</p> <p>Translates existing water sensitive urban design policy.</p> <p>Introduces policy to make provision for waste, recycling and composting in new development.</p>
Clause 52.28 (Gaming)	Translates existing gaming policy. This will sit as a schedule to the particular provision rather than in the PPF.
Schedule to Clause 72.04 (Documents incorporated in this planning scheme)	Updates and expands the existing schedule.
Schedule to Clause 72.08 (Background documents)	Consolidates documents into one schedule and updates the list of documents.
Schedule to Clause 74.01 (Application of zones, overlays and provisions)	Explains the application of zones and overlays.

Source: Explanatory Report

(ii) Proposed post exhibition changes

City of Yarra (Council) submitted proposed changes to the exhibited Amendment in response to:

- issues raised in submissions
- other changes identified by Council officers including errors and corrections, language improvements, additional content of benefit or points of clarification
- further changes endorsed by Council resolution at its meeting on 3 August 2021.⁴

In response to a Direction from the Panel, Council circulated to all parties a full set of amendment documents showing proposed changes prior to the Hearing. These documents are referred to in this Report as the 'Panel version' of Amendment documents.⁵ Council also tabled a letter explaining the proposed changes, including changes to the planning provisions, background and incorporated documents.⁶

⁴ Council meeting agenda, 3 August 2021, para 22 – 29 and Council's Part A submission (Document 84), para 129 - 131

⁵ Documents 16 - 70

⁶ Letter from Council to Panel – Explanation of 8 September version Amendment documents (Document 77)

Further changes were proposed in Council's preferred 'Part C version' of the Amendment documents.⁷

Proposed changes are discussed as relevant in relation to each issue in other chapters of this Report.

1.2 Background and chronology

The chronology of events and strategic work used to inform the Amendment has been summarised by the Panel in Table 3 below.

Table 3 Chronology of events and strategic work

Date	Event / Description
2014 - 2015	Yarra Planning Scheme Review undertaken
August 2014	Environmentally Sustainable Design Buildings Policy
2015	Sustainable Design Assessment in the Planning Process (IMAP)
2015	Public Art Policy 2015-2020
February 2016 (revised version)	Water Sensitive Urban Design Guidelines for City of Yarra Works
2017	Urban Forest Strategy, City of Yarra
April 2018	Community Infrastructure Plan
2018	Waste Minimisation and Resource Recovery Strategy 2018-2022
2018	Yarra Housing Strategy adopted
2018	Yarra Spatial Economic and Employment Strategy adopted
October 2019	Activity Centres Roles and Boundaries report
October 2019	Noise and vibrations considerations – Discussion report
October 2019	Heritage Policy – Residential
October 2019	Heritage Policy – Industrial
October 2019	Landmarks and Views Assessment, Ethos Urban
26 November 2019	Council resolved to request the Minister for Planning give authorisation to prepare the Amendment
November 2019	Yarra Social and Affordable Housing Strategy adopted
2020	Nature Strategy: Protecting Yarra's Unique Biodiversity 2020-24
June 2020	Yarra Climate Emergency Plan 2020 – 2024

⁷ Document 209

Date	Event / Description
7 July 2020	Council received authorisation to prepare the Amendment
20 August 2020	Exhibition period commenced
22 September - 25 October 2020	Exhibition paused for Council elections
4 December 2020	Exhibition period concluded
3 August 2021	Council resolved to request the Minister for Planning appoint a Planning Panel to consider submissions received in relation to the Amendment

1.3 Procedural matters

(i) Directions

The Panel issued draft directions before the Directions Hearing with the option for parties to provide comments in writing or at the Directions Hearing. Council provided written comments that were considered and discussed by parties at the Directions Hearing.⁸ Final directions were issued and distributed to all parties on 2 September 2021.⁹

Further directions for Council were issued by the Panel on 11 October 2021.¹⁰ These directions sought further information and a response from Council in relation to the form and content of specific clauses and further information about proposed background documents.

Council responded to these further directions through verbal submissions at the Hearing and through its Supplementary Part B submission and Part C submission.¹¹

(ii) Yarra Planning Coalition

A number of community group submitters advised on their request to be heard forms that they intended to coordinate submissions as part of a coalition. Direction 4 required relevant parties to advise the Panel how they proposed to coordinate submissions and to provide details of any expert witnesses they intended to call by 8 September 2021, and the version 1 Timetable allocated two days for coordinated community group submissions.

In response to Panel Direction 4, David Young (Submitter 350) circulated to all parties the names of groups and individuals who are members of the Yarra Planning Coalition (YPC) and confirmed that he would coordinate YPC submissions to the Panel.¹² Mr Young advised the YPC is:

a coalition of groups and individuals with interests in planning issues in the City of Yarra. We have come together specifically to participate in the planning panel process with the aim of improving Amendment C269 so that the resulting planning scheme better serves the people of Yarra. YPC members include:

- Alphington Fairfield Appropriate Development Association (AFADA)
- Collingwood Historical Society

⁸ Document 6

⁹ Document 9

¹⁰ Document 120

¹¹ Documents 125 and 242

¹² Document 10

- Fitzroy Residents' Association
- Friends of the Royal Exhibition Building and Carlton Gardens - Our World Heritage
- Protect Clifton Hill (Candice Charles)
- Protect Fitzroy North (Glen McCallum)
- Queens Parade Heritage, Planning & Traders Group (Anne Horrigan-Dixon)
- Save Queens Parade
- South Smith Street Action Group
- The 3068 Group
- Yarra Residents Collective (Theresa Saldanha)
- Justin Francis
- Virginia Noonan
- Terry Nott
- Sally Romanes
- David Young.

Collectively members of the YPC called the following expert evidence:

- Elizabeth Vines on sustainability, heritage and city planning
- Nigel Lewis on heritage
- Jim Holdsworth on architecture and urban design.

A version 2 Timetable was prepared by the Panel and issued on 16 September 2021 which included this information and identified parties who were members of the YPC.

YPC member groups and individuals made separate verbal submissions at the Hearing and time was allocated in the timetable accordingly. YPC submitter groups and individuals were grouped in the timetable where possible, and were identified with a reference to YPC in the timetable.

The Panel directed YPC member groups and individuals coordinate verbal and written submissions, to manage how issues were raised and to avoid repeat submissions on an issue.

Mr Young requested that more than one member of the YPC be permitted to ask questions of witnesses, on the basis that the YPC is made up of individual submitters who are parties to the Hearing with interests in specific issues or areas.

The Panel raised the issue on Day 1 of the Hearing and asked Mr Young to explain how the YPC would function, to clarify its membership and how it intended to coordinate submissions and cross-examination.

After seeking the views of Council and other parties, the Panel agreed that:

- members of the YPC would coordinate cross-examination of experts, with as few parties as possible asking questions (estimated 1 – 3 for each witness), on the basis that every effort would be made to coordinate questioning and ensure that the process of cross-examination of experts is efficient and repeat questions are avoided
- only one representative of the YPC to re-examine witnesses called on behalf of the group.

Council and many community groups and individuals were appreciative of the YPC's coordinated approach and considered that it assisted with efficient submissions at the Hearing.

The Panel found the coordinated approach beneficial and thanks Mr Young and the community groups and individuals for coordinating submissions to assist with the efficient running of the Hearing process.

(iii) Expert evidence

Ms Saldanha (Submission 381) raised questions about Mr Szafraniec's evidence in her hearing submission. These issues were not raised with Mr Szafraniec during cross-examination. Council sought and was granted leave by the Panel to seek further advice from Mr Szafraniec to allow him to respond to the issues raised. Ms Szafraniec's response was provided as an attachment to Council's Part C submission.

(iv) Drafting of planning provisions

The Panel issued Directions relating to the drafting of planning provisions that required Council to circulate a full set of updated Amendment documents with 'tracked changes' showing its preferred version by Tuesday 26 October, and other parties wishing to provide written feedback to do so by Thursday 28 October 2021.

Directions 32 and 33 allowed for all parties to provide written feedback on any further updated Amendment documents circulated by Council on 26 October.

Council circulated its updated Amendment documents 'Part C version' (Document 209) on 27 October 2021.

Feedback on Council's updated Amendment documents were received on 28 October from:

- Ms Vivian (Document 229)
- Protect Fitzroy North (PFN) (Document 230)
- Ms Coveny (Document 231)
- Mr Nott (Document 233)
- Mr Saldanha (Document 234)
- Collingwood Historical Society (CHS) (Document 235)
- Ms Horrigan-Dixon (Document 236)
- The 3068 Group (Document 237)
- Friends of Royal Exhibition Buildings and Carlton Gardens ((FREBCG) (Document 238)
- YPC (Document 239).

(v) Timetable changes

The following late requests to be heard were accommodated by the Panel:

- FREBCG (Submission 171)
- Council Alliance for a Sustainable Built Environment (CASBE) (Submission 16)
- Billie Giles-Corti (Submission 206)
- Lucy Feagins (Submission 404)
- Giselle Darling (Submission 267).

The following parties advised they no longer wished to present verbally to the Hearing:

- National Trust of Australia (Victoria) (Submission 334)
- Fitzroy Residents' Association (Submission 302)
- Adam Promnitz (Submission 147)
- Yarra Primary School (Submission 339)
- Justin Francis (Submission 293)
- Sally Romanes (Submission 208)
- SMA Projects (Submission 429)

- Mary Kenneally (Submission 163)
- Virginia Noonan (Submission 292).

In accordance with Direction 28, SMA Projects provided an additional written submission to supplement their original submission on Thursday 30 September (Documents 97 and 98).

(vi) Further submissions

A number of parties sought to provide further submissions in response to Council's Part C submission. The Panel wrote to parties and advised that no further written submissions would be accepted by the Panel.

UEM Sunrise sought to table an additional submission in response to Council's Part C on the last day of the Hearing. The Panel asked UEM Sunrise to explain why the Panel should consider the document, and provided Council an opportunity to respond. Council explained why it did not consider it appropriate for the document to be tabled. UEM Sunrise withdrew the request.

1.4 Summary of issues raised in submissions

A total of 429 submissions were received including:

- 398 from community members (280 through a community webpage campaign)
- 12 from community groups
- 2 from State Government departments, including the Department of Transport (DoT) and the Environment Protection Authority (EPA)
- 4 from organisations
- 3 from CASBE member local councils, including City of Port Phillip, City of Stonnington and Moreland City Council
- 10 from representatives of landowners.

Three submissions provided supplementary information to original submissions.

Council identified that issues were raised in submissions relating to:

- Activity Centres
 - Height / Built form
 - Heritage and Character
 - Transport / Traffic / Car parking
 - Boundary
- Environmental and landscape values
- Environmental risk and amenity
 - Interface and amenity
 - Licensed venues
 - Climate change
 - Flood management
- Built environment and heritage
 - Urban design
 - Building design
 - Landmarks
 - Heritage
 - World Heritage
 - Environmentally Sustainable Design

- Signs
- Housing
 - Location of residential development
 - Housing diversity
 - Affordable housing
- Economic development
- Transport
- Infrastructure
 - Open space
 - Development contributions
 - Waste
 - Water sensitive urban design
- Form and content of the Amendment
- Other issues and site specific issues.

Twenty-nine submissions provided detailed comments on the proposed planning provisions.

At its meeting on 3 August 2021, in deciding to refer the Amendment to a Panel, Council requested the Panel provide recommendations on all issues and with specific consideration on some key issues.¹³ The specific issues are identified in Table 4 with a reference to where the Panel has addressed this in the Report.

Table 4 **Specific considerations requested by Council**

Specific consideration requested by Council	Relevant Report Chapter
The term mid-rise and what mid-rise development will look like in our activity centres	Chapter 4
Balancing tensions of introducing residential growth in and around activity centres versus the primary commercial and cultural roles of those activity centres	Chapters 5 and 6
The boundary of the Swan Street Activity Centre and the inclusion of the precinct bound by Tanner, Stewart and Wangaratta Streets	Chapter 5
The designation of Rathdowne Street, Carlton North as a Neighbourhood Activity Centre (NAC) as identified in Clause 11.03-1L (Activity centres) and its identification for incremental change	Chapters 5 and 6
The inclusion of significant banks, pubs and clubs in proposed Clause 02.03 “Strategic directions”, under the heading “Built environment and heritage” and sub-heading “Manage development and growth in Yarra to maintain and enhance the unique character and heritage of the city”	Chapters 8 and 13.2
In proposed Clause 02.03 “Strategic directions”, under the heading “Built environment and heritage” and sub-heading “Manage development and growth in Yarra to maintain and enhance the unique character and heritage of the city”, specific reference to historic street infrastructure such as bluestones laneways, bluestone kerbs and channel as well as the remnants of inner circle railway tracks and historic lampposts	Chapters 8 and 13.2

¹³ Council report minutes, 3 August 2021

Specific consideration requested by Council	Relevant Report Chapter
The appropriateness of the use of the equinox when considering overshadowing of public open space, compared to the winter solstice	Chapter 12.2
The impact of slower population growth on housing projections for Yarra	Chapter 3

1.5 Limitations

Council submitted in its Part A submission that submissions raising non-planning issues or issues not relevant to the Amendment had been referred to relevant departments within Council.¹⁴

Several submitters supported the establishment of a Design Review Panel. The Panel agrees with Council that it is not appropriate to establish such a mechanism through policy in the Planning Scheme.¹⁵

The Panel agrees that the following issues are outside of the scope of this Amendment, and have not been addressed in this Report:

- proposals for rezoning
- issues relating to Yarra Primary School
- provision of safe injecting rooms
- graffiti.

1.6 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

The Panel has considered strategic justification of the Amendment generally, as discussed in Chapter 3, and the strategic justification of proposed planning provisions has been addressed as relevant in the issue specific chapters. Issue specific chapters address drafting issues of policy as relevant. General drafting issues have been addressed in Chapter 13.

Where specific wording policy changes are proposed, these are indicated by:

- Additions are shown in underlined text
- Deletions are shown in ~~striketrough text~~.

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification

¹⁴ Council's Part A submission (Document 84), para 186

¹⁵ Council Part C, paragraph 138

- Building height
- Activity centres
- Housing
- Employment precincts
- Heritage
- Landmarks
- Noise
- Environmentally Sustainable Development
- Other issues
- Form and content.

2 Planning context

2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the PPF, which the Panel has summarised below.

Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the *Planning and Environment Act 1987* (PE Act) by:

- providing for the fair, orderly, economic and suitable use, and development of the land
- providing for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity
- ensuring a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- conserving and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value
- protecting public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community
- facilitating development in accordance with the objectives of planning in Victoria.

State Planning Policy Framework

The Explanatory Report and Council's Part A submission explains how the Amendment supports and implements the State PPF.

Relevant State and regional planning policies include:

- Clause 11 (Settlement)
- Clause 13 (Environment risks and amenity)
- Clause 15 (Built environment and heritage)
 - Clause 15.01-1S (Urban design)
 - Clause 15.01-1R (Urban design – Metropolitan Melbourne)
 - Clause 15.01-2S (Building design)
 - Clause 15.02-1S (Energy and resource efficiency)
- Clause 16 (Housing)
 - Clause 16.01-1R (Housing supply – Metropolitan Melbourne)
- Clause 17 (Economic development)
- Clause 18 (Transport)
- Clause 19 (Infrastructure).

Local Planning Policy Framework (LPPF)

The basis of the Amendment is to rewrite the Municipal Strategic Statement (MSS) and local policies to accord with the new PPF format introduced through Amendment VC148 (see Chapter 3.1).

The specific clauses of the LPPF are discussed throughout this Report.

2.2 Other relevant planning strategies and policies

(i) Plan Melbourne

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved.

Council's Part A submission identified the parts of Plan Melbourne that are particularly relevant to the Amendment (summarised in Table 5).

Table 5 Relevant parts of Plan Melbourne

Outcome	Directions	Policies
1- Melbourne is a productive city that attracts investment, supports innovation and creates jobs	1.1 - Create a city structure that strengthens Melbourne's competitiveness for jobs and investment 1.2 - Improve access to jobs across Melbourne and closer to where people live	
2 - Melbourne provides housing choice in locations close to jobs and services	2.1 - Manage the supply of new housing in the right locations to meet population growth and create a sustainable city 2.2 – Deliver more housing close to jobs and public transport 2.3 - Increase the supply of social and affordable housing 2.4 - Facilitate decision making processes for housing in the right locations 2.5 - Provide greater choice and diversity of housing	2.1.2 – Facilitate an increased percentage of new housing in established areas to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport. 2.1.4 – Provide certainty about the scale of growth in the suburbs 2.2.3 – Support new housing in activity centres and other places that offer good access to jobs, services and public transport
4 - Melbourne is a distinctive and liveable city with quality design and amenity	4.3 – Achieve and promise design excellence 4.4 – Respect Melbourne's heritage as we build for the future	4.3.1 – Promote urban design excellence in every aspect of the built environment 4.4.1 – Recognise the value of heritage when managing growth and change
6 - Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	5.1 – Create a city of 20-minute neighbourhoods	5.1.1 – Create mixed-use neighbourhoods at varying densities. 5.1.2 – Support a network of vibrant neighbourhood activity centres.

2.3 Planning scheme provisions

(i) Clause 71.02 (Operation of the Planning Policy Framework)

Clause 71.02-1 sets out the purpose of the PPF as follows:

The Planning Policy Framework provides a context for spatial planning and decision making by planning and responsible authorities. The Planning Policy Framework is dynamic and will be built upon as planning policy is developed and refined, and changed as the needs of the community change. The Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in section 4 of the Act) are fostered through appropriate land use and development planning policies and practices that integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

Clause 71.02-3 requires Council as the Planning Authority (as well as in the context of considering an application a Responsible Authority) to:

... integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

2.4 Ministerial Directions, Practice and Advisory Notes and guidelines

Ministerial Directions

Council submitted that the Amendment has been prepared in accordance with:

- Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the PE Act
- Ministerial Direction 9 – Metropolitan Planning Strategy
- Ministerial Direction 11 - Strategic Assessment of Amendments
- Ministerial Direction 15 – The Planning Scheme Amendment Process
- Ministerial Direction 19 – Ministerial Direction on the Preparation and Content of Amendments that may Significantly Impact the Environment, Amenity and Human Health and Ministerial Requirement for Information for Authorisation or Preparation of Amendments that may Significantly Impact the Environment, Amenity and Human Health.

That discussion is not repeated here.

Planning Practice Notes

Council's Part A submission and Ms Ancell, who gave expert evidence on planning for Council, identified the following relevant planning advisory and practice notes:

- *Planning Advisory Note 71* provides information about the PPF introduced by Amendment VC148
- *Planning Advisory Note 72* outlines changes to the Victoria Planning Provisions (VPP) and planning schemes resulting from Amendment VC148. It identifies the strategic rationale for the changes to the VPP and describes the outcomes of the Smart Planning Program
- *Planning Practice Note 8 - Writing a Local Planning Policy* (PPN08), which provides guidance on the role of local planning policy in planning schemes, the need for a local planning policy and how one should be written

- *Planning Practice Note 13 - Incorporated and Background Documents (PPN13)*, which explains the role of external documents in planning schemes, the difference between incorporated and background documents and when a document should be incorporated or be a background document
- *Planning Practice Note 32 - Review of Planning Schemes (PPN32)* explains what a planning scheme review is and suggests a process for conducting and reporting the review.
- *Planning Practice Note 46 - Strategic Assessment Guidelines (PPN46)* requires a planning authority to evaluate and discuss how an amendment addresses a number of strategic considerations
- *Planning Practice Note 58 - Structure Planning for Activity Centres (PPN58)* including by responding to the relevant criteria and issues to consider in determining the potential location of activity centre boundaries
- *Planning Practice Note 60 – Height and Setback Controls for Activity Centres (PPN60)*
- *Planning Practice Note 61 – Licensed premises: assessing cumulative impact (PPN61)* explains cumulative impact in relation to licensed premises in the planning system
- *Planning Practice Note 74 - Availability of planning documents (PPN74)* provides guidance on making planning documents available under the PE Act
- *Planning Practice Note 83 - Assessing external noise impacts for apartments (PPN83)* provides guidance about the operation of Clause 55.07-6 (Noise impacts) and Clause 58.04-3 (Noise impacts) for apartment developments
- *Planning Practice Note 90 - Planning for Housing (PPN90)* provides information and guidance about how to plan for housing growth and protect neighbourhood character to ensure a balanced approach to managing residential development in planning schemes.

The Panel identified the following additional planning practice notes as relevant:

- *Planning Practice Note 43 - Understanding Neighbourhood Character (PPN43)*
- *Planning Practice Note 81 - Live Music and Entertainment Noise (PPN81)*
- *Planning Practice Note 91 - Using the residential zones (PPN91).*

A Practitioner's Guide to Victorian Planning Schemes

Council submitted that the Amendment was drafted in accordance with the principles set out in *A Practitioner's Guide to Victorian Planning Schemes* (Practitioner's Guide), to ensure that its content is:

- within the scope of the PE Act and strategically justified
- clear in its application, proportional to the intended planning outcome and consistent with relevant parent provisions, practice notes, advisory notes and ministerial directions issued by the Minister for Planning
- drafted to be clear and unambiguous.

3 Strategic justification

3.1 The need to update the Planning Scheme

Council submitted that the Amendment was required to update the local planning policies of the Planning Scheme and to translate the new local policy into the PPF.

The work is based on two key strategic drivers:

- the requirement of section 12B of the PE Act to review the planning scheme no later than one year after an approved Council Plan
- the need to translate the LPPF into the PPF, in accordance with Amendment VC148.

(i) Planning Scheme Review 2014

A comprehensive Planning Scheme Review was undertaken in 2014 in accordance with Planning Practice Note 32. The review concluded that the Planning Scheme needed updating to:

- reflect Council's updated policy positions
- make the scheme easier to understand and use
- address gaps in policy
- consider the diversity of views on key planning topics.

(ii) Amendment VC148

Amendment VC148 was introduced as part of the Victorian Government's Smart Planning Program to simplify and modernise the PPF. Amendment VC148, gazetted on 31 July 2018, made substantial changes to the structure and content of the PPF, as well as other planning scheme provisions.

Amendment VC148 introduced to all planning schemes in Victoria:

- a new a new integrated State, regional and local policy structure – the PPF
- a format to enable the introduction of a MPS
- modified schedules to some existing zones, overlays and provisions to accommodate additional local content
- created new operational provisions.

The PPF is the policy content of a planning scheme containing State policy (which includes regional policy) and local policy in a thematically integrated form. The PPF is complemented by an MPS at Clause 02 of the planning scheme.

The MPS is a succinct expression of the overarching strategic policy directions, and replaces and updates the MSS. It provides:

- the foundation for the planning scheme's policy based on a municipality's location, regional context, assets and strengths, opportunities and challenges
- an understanding of the matters that are important to the municipality from a planning perspective
- the context for the local and relevant state policies in Clauses 10 to 19
- an outline of what planning outcomes the municipality seeks to achieve, which are then implemented through controls and policy within the Planning Scheme.

3.2 Strategic work underpinning the Amendment

Council submitted that the following reports were proposed to be included as background documents, incorporated documents or had been used to inform the Amendment. Each document is discussed briefly in this Chapter, and referred to in greater detail as required throughout the Report.

(i) Liveable Yarra

Undertaken in 2015, the Liveable Yarra project informed review of the Planning Scheme and draft policy. Liveable Yarra involved an in-depth conversation with the community about how to respond to growth and change in Yarra. It was intended to support Plan Melbourne's aim to strengthen community participation in planning the city.

Background papers were prepared in relation to key policy gaps that were identified during the Planning Scheme Review, including:

- people and housing
- business and employment
- movement and access
- built environment.

Consultation was undertaken through a survey, community workshops, Advisory Committees, a People's Panel, and Liveable Yarra Reference Group which participated in workshops on topics to inform Council's strategic work.¹⁶

(ii) Activity Centres – Roles and Boundaries, City of Yarra (October 2019)

The *Activity Centres – Roles and Boundaries, City of Yarra* (October 2019) (Activity Centres Report) defines the network of activity centres in the City of Yarra. It assesses the policy context for the system of activity centres in the City of Yarra by reviewing the current Planning Scheme provisions and analysing the roles, extent and boundaries of all the City's activity centres and:

- provides a rationale for the boundaries and role of major, neighbourhood and local activity centres
- maps the activity centre boundaries and identifies the categories of precincts in each centre.

The Activity Centres Report is proposed as a new Background Document.

(iii) Review and Development of the City of Yarra Landmarks Policy, Ethos Urban (March 2018)

The *Review and Development of the City of Yarra Landmarks Policy, Ethos Urban* (March 2018) (Landmarks Policy Review) reviews the list of nominated landmarks in the current Clause 22.03 and make recommendations as to how the policy could be improved to protect the City's landmarks. It:

- documents and identifies the architectural characteristics and significance of each landmark
- defines the important view lines and associated architectural elements

¹⁶ Ordinary Council Meeting Agenda, 26 November 2019

- provides recommendations for local planning policy, including policy guidance.

The Landmarks Policy Review was exhibited as a supporting document to the Amendment, but is not proposed to be included as a Background Document.

(iv) Landmarks and Views Assessment, Ethos Urban (October 2019)

The *Landmarks and Views Assessment*, Ethos Urban (October 2019) (Landmarks and Views Assessment) describes the significance of fourteen identified landmarks, analyses key view points and identifies current relevant planning policy and controls. A views assessment is undertaken for each landmark, including primary and secondary views, and documentation of key features and management issues. Each landmark is either subject to the Heritage Overlay or is included on the National Heritage Trust Register.

The Landmarks and Views Assessment is proposed to be referenced under policy guidelines in the new Clause 15.01-2L (Landmarks) and to be included as a new Background Document.

(v) Noise and Vibration Considerations Discussion Report, SLR Consulting Pty Ltd (October 2019)

The Noise and Vibration Considerations Discussion Report, SLR Consulting Pty Ltd (October 2019) (Noise Discussion Report) provides a technical discussion and summary of previously provided advice to Council on planning related noise and vibration issues in relation to:

- Road traffic noise
- Rail noise
- Rail vibration – trains and trams
- Commercial noise
- Music noise
- Patron noise
- Patron noise
- Apartment noise.

The Noise Discussion Paper makes recommendations for planning provisions with consideration of regulatory requirements, standards and guidelines.

The Noise Discussion Report is proposed to be introduced as a new Background Document.

(vi) Guidelines – Managing noise impacts in urban development, October 2019

The *Guidelines – Managing noise impacts in urban development*, October 2019 (Noise Guidelines) were prepared by Council based on the strategic work undertaken in the Noise Discussion Report.

The Noise Guidelines are proposed to be referenced under policy guidelines in the new Clause 13.07-1L and included as a new Incorporated Document.

(vii) Residential Heritage Policy Review, Context (31 October 2019)

The *Residential Heritage Policy Review*, Context (31 October 2019) (Residential Heritage Policy Review) reviewed Council's residential heritage policy in order to address shortcomings identified in the Planning Scheme Review. The review involved:

- analysing a sample of recent developments in the City of Yarra ('good' and 'bad')
- identifying different residential typologies that may benefit from particular policies

- assessing the common heritage policy tests for visual impact assessment and how they apply to different typologies
- identifying specific heritage and design considerations for additions and infill development.

The Residential Heritage Policy Review informed the proposed heritage planning policy and is proposed as a new Background Document.

(viii) Yarra Industrial Heritage Policy, GJM Heritage (15 October 2019)

The *Yarra Industrial Heritage Policy*, GJM Heritage (15 October 2019) (Industrial Heritage Policy Report) provides advice on planning policy to manage change within industrial heritage sites.

Development of the report involved:

- reviewing the Northern Suburbs Factory Study (Vines & Churchward, 1992), as relevant to the City of Yarra, including identifying the categories of industrial building types and extant examples of the various building typologies and reviewing citations
- undertaking site visits to identified typological examples to consider built heritage context and analysis of positive and negative features of any redevelopment
- reviewing existing policy guidance relating to the management of industrial heritage sites
- drafting of policy relevant to the Yarra context, drawing on the above material.

The Industrial Heritage Policy Report informed the proposed heritage planning policy and is proposed as a new Background Document.

(ix) Yarra Spatial Economic and Employment Strategy, SGS Economics (2018)

The purpose of the *Yarra Spatial Economic and Employment Strategy*, SGS Economics & Planning (2018) (SEES) is to provide guidance on managing growth and change in employment and economic activity and has been prepared with regard to planning contextual considerations, capacity for employment growth and trends and drivers. The SEES identifies Yarra's employment land as a strategic resource that accommodates a large and diverse range of business and jobs and provides employment opportunities.

The SEES recommends the following six strategies to manage employment land over the next 10-15 years:

- support employment growth in Yarra's Activity Centres
- retain and grow Yarra's major employment precincts
- identify preferred locations for housing growth
- support the expansion of health-related employment and services in Yarra's health precincts
- retain other Commercial 2 zoned precincts and sites
- retain Yarra's existing industrial precincts for manufacturing and urban services.

The SEES has informed the direction in the MPS, Strategic Framework Plan and several proposed local policies and is proposed as a new Background Document.

(x) Yarra Housing Strategy, City of Yarra (September 2018)

The *Yarra Housing Strategy*, City of Yarra (September 2018) (Housing Strategy) is a residential growth framework that provides policy guidance on where housing growth is to be focussed and where it will be limited. It recommends four strategic directions:

- Strategic Direction 1: Monitor population growth and evolving development trends in Yarra to plan for future housing growth and needs
- Strategic Direction 2: Direct housing growth to appropriate locations
- Strategic Direction 3: Plan for more housing choice to support Yarra's diverse community
- Strategic Direction 4: Facilitate the provision of more affordable housing in Yarra.

(xi) Building for Diversity – Yarra's Social and Affordable Housing Strategy, Yarra City Council (November 2019)

The *Building for Diversity – Yarra's Social and Affordable Housing Strategy*, Yarra City Council (November 2019) (Affordable Housing Strategy) seeks to facilitate the long term supply of both social housing and affordable housing, considered to be within reach of households with moderate or low incomes (as defined by the Victorian Government).

It includes an overview of the State policy context and recent initiatives, and notes the focus on increasing affordable housing set out in *Plan Melbourne 2017-2050* to:

- utilise government land to deliver additional social housing via trialling an inclusionary housing pilot on six surplus sites,
- streamline decision-making processes for social housing proposals,
- strengthen the role of planning in facilitating and delivering the supply of social and affordable housing, and
- create ways to capture and share value uplift from rezoning.¹⁷

(xii) Nature Strategy: Protecting Yarra's Unique Biodiversity (2020 to 2024)

The *Nature Strategy: Protecting Yarra's Unique Biodiversity (2020 to 2024)* (Nature Strategy) was developed to protect Yarra's unique biodiversity, with the following vision:

The land within the City of Yarra supports a natural environment that is diverse, connected and resilient. Its custodians, the Wurundjeri Woi Wurrung people, continue to care for Country as is their traditional lore. Yarra's residents and visitors appreciate and enhance the natural and cultural values of the land and water, contributing to benefits for all.

The Nature Strategy includes four strategic goals:

Goal 1: Increase the diversity, connectivity and resilience of Yarra's natural environment;

Goal 2: Encourage people to appreciate and actively enhance Yarra's natural landscape;

Goal 3: Embed nature at the core of Yarra's business practices; and

Goal 4: Make innovation, communication and collaboration the cornerstones of Yarra's nature-focussed programs.

(xiii) Waste Minimisation and Resource Recovery Strategy 2018-2022

The *Waste Minimisation and Resource Recovery Strategy 2018-2022* (Waste Strategy) provides the context for waste minimisation and resource recovery in Yarra and establishes a vision, objectives,

¹⁷ Document 61, Yarra Social and Affordable Housing Strategy, 2019, p25

targets and measures for action. It identifies as key relevant emerging issues including adequate infrastructure provision in multi-unit developments.

3.3 Evidence and submissions

(i) PPF Translation and new policies

Council submitted the Amendment involves a policy neutral translation of some policy content and new policy content¹⁸. It considered the strategic basis of the PPF translation is clear and would ensure the Planning Scheme complies with the new PPF and MPS format. It would result in streamlining local policy.¹⁹

Council submitted that the Amendment is consistent with the PE Act and had been prepared with consideration of relevant planning practice notes, Ministerial Guidelines and the Practitioner's Guide.

With consideration of Clause 71.02 (Operation of the Planning Policy Framework), Council submitted the *"Amendment strikes an appropriate balance in accommodating and facilitating growth while recognising and protecting the heritage significance and public realm amenity of Council's activity centres and other parts of the municipality"*.²⁰

Council considered the Amendment consistent with the form and structure of the VPP and explained it had been drafted with review by the Department of Environment, Land, Water and Planning's (DELWP) Smart Planning Team as a part of a pilot program under Amendment VC148²¹.

Ms Ancell of Echelon Planning was engaged by Council to give planning evidence, including an opinion on the Amendment and *"the appropriateness of the PPF translation"*.²²

Ms Ancell summarised the requirements and key tenets of planning guidance relevant to the Amendment and noted that Council had worked closely with DELWP during preparation of the Amendment, including DELWP reviewing the drafting and consistency with practice guidance. She gave evidence that the Amendment was in accordance with Plan Melbourne:

It provides strategies to enable residents to access employment and housing opportunities that are well linked to public transport, and to meet their daily needs in their local neighbourhood, as well as ensuring heritage and environmental considerations are addressed for new developments.

She was of the view that the Ministerial Direction 11 had been complied with, and that the overall approach to the PPF translation accorded with the relevant practice guidance. She recommended changes to some clauses to ensure consistency with relevant guidelines.

Several submitters expressed general support for the Amendment, and some raised issue with the strategic justification of specific elements of the Amendment. Issues were raised by submitters in relation to drafting, including suggested changes to policy content and use of plain English.

¹⁸ Document 84 - Attachment A to Council's Part A submission details whether each policy is a neutral translation or whether new content is proposed

¹⁹ Document 105 - Council's Part B submission, para 5 - 8

²⁰ Document 84 - Council's Part A submission, para 169

²¹ Council's Part A submission (Document 84), para 155

²² Document 85, Expert Witness Statement, Sarah Ancell

PFN (Submission 372 and Document 153) acknowledged the significance of the Amendment, and considered:

The goals to produce a more “fit-for-purpose” planning regime are laudable - one that is clearer and more streamlined, better suited to meeting challenges such as climate change, and one that is more comprehensible to practitioners and the public alike both in and of itself and in terms of the decisions and outcomes that arise from it.

Stating that while not a ‘unity ticket’, Council and its community are admirably aligned in their desires and aspirations relating to ESD, social and affordable housing, amenity of private and public spaces and conservation and adaptive reuse of heritage buildings and streetscapes. PFN made detailed submissions on specific issues, stating that many changes sought were intended to improve clarity of the Planning Scheme for community and developers.

Salta Properties Pty Ltd (Submission 412) commended Council for the work undertaken to date, however expressed concern with the amount of new information and policy being advanced by the Amendment. It considered that key proposed adjustments to the PPF had the potential to undermine State policy initiatives that direct more intensive development to designated activity centres and urban renewal areas.

CHS (Submission 312) acknowledged the extensive work undertaken by Council over many years to prepare the rewrite of the Planning Scheme.

Streets Alive Yarra (Document 132) considered the Amendment was supported by the community and aligns with Plan Melbourne and adopts many best practice urban design guides.

Several submitters considered there was a lack of consultation on background documents underpinning the Amendment and submitted that further community consultation was required to refine elements of the Amendment. Several submitters complimented Council where extensive community consultation had occurred.

Council submitted that in preparing the Amendment it had undertaken broad consultation, complemented by targeted consultation through a number of its Advisory Committees. In response to further directions from the Panel, Council provided an overview of community consultation undertaken in the preparation of each strategic document underpinning the Amendment.²³ It explained community consultation was undertaken on a number of background documents and other documents were translated directly into local policy with consultation to occur through exhibition of the Amendment.

(ii) Growth projections and COVID-19

The Panel directed Council in its Part B submission to provide an overview of the anticipated impact that the COVID-19 pandemic may have on the assumptions that underpin the Amendment and the resulting suite of proposed planning policies.

Ms Szafraniec gave evidence on economics and capacity on behalf of Council. As the Amendment proposes to update policy, he focused his assessment on the appropriateness of the evidence base and provided updated data and trends, considered the potential impact of COVID-19 and extended his analysis to 2036 (rather than 2031, to allow for 15 years from today).

²³ Document 125 - Attachment 4 to Council’s Supplementary Part B Submission

Mr Szafraniec noted that the pandemic has had profound impacts on society including population growth and economic activity, and at the time of writing the pandemic was still unfolding. While the short and long term impacts were very uncertain there were some indications from data and related research of the potential impacts on population and dwelling growth.

He relied on projections from Victoria in Future (VIF) 2016 and 2019, Informed Decisions (id.) consultants from 2018²⁴ and actual population growth data from the Australian Bureau of Statistics (ABS) for 2019/2020. Both the SEES and Housing Strategy were based on VIF16 projections. VIF19 and id. forecasts suggested a higher growth rate, however actual population growth dropped in 2019 to 2020, primarily due to impacts of the COVID-19 pandemic.

In summary, Mr Szafraniec was of the opinion that key implications of relevance to the Amendment were:

- across Greater Melbourne it is estimated there will be a six per cent lower growth scenario than previously forecast to 2031
- population growth in Yarra is likely to be heavily impact for the next two years (2022 – 2023), and from 2024 there will be a small lasting impact on population growth with potentially a reduction of a similar proportion to Greater Melbourne of around six per cent
- Net Internal Migration (NIM) has historically represented 70 per cent of growth for Yarra. Up to June 2020 NIM in Yarra reduced by 30 per cent (higher than the Greater Melbourne average) and trends suggested that ongoing Yarra may be more heavily impacted by reduced NIM due to:
 - reduced demand for smaller dwellings (i.e. small apartments) as people seek greater private space due to the impacts of lockdown and increased levels of people working/studying from home
 - proximity to work and broader economic opportunities has reduced as a primarily driver of location due to lockdowns and the potential for increased working from home post-COVID.²⁵
- likely preferences for larger and detached forms of dwellings may disproportionately impact on demand for more housing within activity centres which are proposed to contain more intensive development forms.

He concluded that taking into account the impacts of COVID-19, population growth and housing demand is likely to be consistent with the VIF16 projections which the SEES and Housing Strategy are based on, with a need to provide for approximately 1,000 dwellings per year to 2036.

Mr Szafraniec confirmed that employment in Yarra was expected to continue to grow and structurally evolve toward more population and knowledge based services. He explained that the SEES estimates that a modest increase of employment floor space of 270,000 square metres would be required by 2031 (total 3,860,000 square metres). He extended the projections to 2036 and considered that using the same employment to floor space ratios as the SEES an additional 320,000 square metres would be required (total 4,180,000 square metres).

Mr Szafraniec acknowledged that employment and economic activity had been significantly impacted across Yarra due to COVID-19, but considered a rapid rebound in economic activity is still

²⁴ Commissioned by Council, data available on the forecast.id website

²⁵ Document 89, Expert Witness Statement J Szafraniec, page 14

expected when the outbreak is controlled and vaccine targets are achieved. Lasting impacts are likely to accelerate existing or emerging trends, including:

- structural reform in the retail sector, with expanded opportunities for “*experience based retailers with unique products and services who are also able to access online communities and markets. This aligns well with Yarra’s retailers and recommendations detailed in the SEES*”²⁶
- a shift towards a more hybrid working model in the commercial office-based sectors. Yarra is likely to continue to provide a compelling offer for existing and new firms
- health care will be reinforced as the strongest employment growth sector in the economy, with Yarra’s established health economy likely to see direct and flow on employment opportunities.

He concluded there is likely to be a reduced growth in demand for employment floor space in the short term (2 – 5 years) as a result of COVID-19, and over the medium (5 – 15 years) demand is likely to recover and the fundamentals of the Yarra economy likely to be sound, as detailed in the SEES and reflected in the Amendment. He considered “*it is still appropriate to plan for a broadly similar level and composition of employment floorspace growth across the City of Yarra over the next 15 years*”.²⁷

With reference to the *Draft Inner Metro Land Framework Plan*, Ms Ancell was of the opinion that while there is a short term interruption to growth this is not expected to change Melbourne’s long term future directions.²⁸

Council submitted it relied on the evidence of its experts.

In submissions, Ms Saldanha challenged Mr Szafraniec’s evidence, stating that Yarra is likely to see heavier declines in population than Greater Melbourne (estimated to be around six per cent) by 2036 as:

- Yarra is less dependent on Net Overseas Migration (NOM) (typically 5 per cent) and more reliant on NIM (typically 70 per cent) than Greater Melbourne
- Greater Melbourne recovery is predicated on NOM, which has not been not a large component of population growth in Yarra.

In terms of demand for employment floor area, Ms Saldanha considered working from home / hybrid models would persist post COVID-19 and this would impact on the demand for commercial properties and the demand for dwellings near the CBD.

Mr Szafraniec disagreed with Ms Saldanha’s interpretation of his population growth projections, stating there was no evidence to support her assertions. Referring to his written evidence statement (paragraph 48), he confirmed:

- projections for 2023-24 indicate both NIM and NOM for Greater Melbourne would largely return to pre-COVID growth trends. This will see Greater Melbourne NIM essentially returning to close to net zero and NOM returning to a large share of Greater Melbourne’s growth.²⁹

²⁶ Document 89, Expert Witness Statement J Szafraniec, page 22

²⁷ Document 89, Expert Witness Statement J Szafraniec, page 23

²⁸ Document 105, Council Part B Submission, para 331

²⁹ Based on the latest ABS data and research, the federal government Centre of Population has developed COVID-19 population projection scenarios for all States and Capital Cities

- distribution across Greater Melbourne will vary spatially, and NIM will generally increase for smaller geographies as it picks up localised movements within Greater Melbourne.

He concluded:

The Centre of Population data indicates that components of population growth would largely return to pre-COVID rates by 2023-24. On this basis alone, it could only be asserted that the City of Yarra would also see a similar recovery profile, with both NIM and NOM reverting to their respective pre-COVID levels for City of Yarra - rather than shifting to a different profile more consistent to Greater Melbourne which refers to a significantly larger area.

Saying this, there is the potential that the components of growth in the City of Yarra will not fully revert to their pre-COVID trends. I believe this is a separate issue (which I have discussed at paragraph 48-19[sic] of my statement). I believe, shifts would be relative to City of Yarra pre-COVID proportion and not based on the recovery proportions of Greater Melbourne alone.

While Mr Szafraniec agreed with Ms Saldanha that more people are likely to work from home and consumer behaviours will be impacted, he did not agree that *“these trends would ultimately result in reduced demand around the CBD and a more decentralised population and employment pattern, potentially leading to reduced demand for development in the City of Yarra”*.³⁰ He considered the conclusion still quite uncertain, and the impacts of COVID to still be uncertain particularly for the inner city, with the potential to increase and decrease aggregate demand and the type of space required.

Several submitters were concerned that the Amendment had not been revisited based on the experience of COVID-19, such as changes to population growth, working from home, overshadowing and the greater emphasis and importance of 20 minute neighbourhoods.

3.4 Discussion

(i) PPF translation and new policies

The Amendment proposes:

- policy neutral translation of seven policies
- translation of 19 existing policies with new content
- to introduce seven new local policies and four new clauses of the MPS
- translates two operational provisions with new content, and adds one new operational provision.

The Panel agrees with submitters that the Amendment, which intends to update and produce more streamlined policy, is significant. It acknowledges the extensive work undertaken by Council in preparing the Amendment.

While the Panel agrees with submitters that early engagement can assist with resolving issues in advance of the Amendment process, it understands the diverse approach to consultation undertaken by Council given the broad scope and variety of relevant policy matters.

While issues have been raised about specific elements of the Amendment, there were no submissions or evidence given that the overall Amendment was not strategically justified. While

³⁰ Document 242 – Council’s Part C Submission, Attachment D

Salta Properties Pty Ltd indicated concerns with some aspects of the Amendment and consistency with State policy, no further information was provided and it did not participate in the Panel process.

The Panel understands that the form and structure of the Amendment was reviewed by DELWP's Smart Planning Team. Issues raised by submitters in relation to drafting of the Amendment and specific recommended changes of Ms Ancell are discussed in issue specific chapters of this Report, and general form and content issues are discussed in Chapter 13.

Overall, the Panel is satisfied that Council has considered relevant planning practice notes and Ministerial Guidelines in preparing the Amendment, and it accepts the premise of Council's submissions and Ms Ancell's evidence that the Amendment is strategically justified and consistent with planning requirements.

The strategic basis of new content and new policies is discussed in other chapters of this Report.

(ii) Growth projections and COVID-19

The Panel acknowledges the questions raised in Ms Saldanha's submission relating to uncertainty and alternative scenarios for population and employment growth as a result of COVID-19. It is clear there is continuing uncertainty and unknowns with population and housing growth projections in light of the impacts of COVID-19.

PPN90 requires planning authorities to use Victorian Government population projections and land supply estimates when planning for population growth and managing housing change.

In relation to population growth projections, Mr Szafraniec's evidence was based on analysis of government data and projections and he provided further analysis of available data and trends resulting from COVID-19. The Panel was not presented with any evidence or justification to accept alternative scenarios.

Under the circumstances, the Panel accepts the evidence of Mr Szafraniec that the growth projections used to underpin the Amendment are sound, understanding that the impacts of the pandemic are still unfolding and hence there is still uncertainty relating to the pace and nature of growth.

The Panel turned its mind to implications for the Amendment if the recovery or growth varies significantly from that anticipated by the SEES and Housing Strategy. Indications are that growth may slow in the short term, however will recover and continue to near earlier projections.

If the rate of population and housing growth is slower, this may allow Council time to progress its extensive future strategic work program, in particular to introduce built form planning provisions in areas where there is significant development interest and which are highly anticipated by members of the community. If the rate of growth is faster, the Panel does not anticipate any immediate implications as the Amendment updates local policy and provides guidance for future strategic planning and development approvals.

As noted by several submitters, COVID-19 has shone a light on a number of key planning policy considerations, such as managing amenity in local environments and delivering 20 minute neighbourhoods, that are consistent with State policy and which are already being pursued by Council and supported by the community.

Issues relating to housing and employment floor space capacity resulting from the Amendment are discussed in other chapters in this report.

The Panel does not consider there to be any significant implications relating to the strategic justification of the Amendment resulting from COVID-19. Consistent with best planning practice and the requirement to undertake regular reviews of planning schemes, the impacts of COVID-19 will need to be monitored and future evidence-based changes made if required.

3.5 Conclusion

The Panel considers the Amendment is broadly consistent with the PE Act, Plan Melbourne, is supported by and implements the relevant sections of the PPF and has generally been prepared in accordance with relevant Ministerial Directions and Practice Notes. The Panel considers that the Amendment is consistent with the principles of net community benefit as it will provide streamlined and updated policy into the Planning Scheme, and will address many issues of concern and interest to the community.

The Amendment has adequately considered the impacts of COVID-19, accepting that the impacts of the pandemic are still being understood and future adjustments may be required.

The Panel concludes the Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

4 Building height

4.1 What is proposed?

The MPS and various proposed planning policies refer to building height by the terms ‘low-rise’ ‘mid-rise’ and ‘high-rise’.

Clause 15.01-2L (Building design) is central to the issue of building height and, as exhibited, states:

Building heights

Ensure the height of new buildings respond to the height of adjoining development, unless indicated otherwise in the planning scheme.

Ensure that development reflects the predominant low-rise character of the area, except in the areas below:

- Activity centres (as shown on the Strategic Framework Plan in clause 02.04-1 and clause 11.03-1L).
- Employment areas (as defined in clause 02.01).
- Major regeneration areas (as shown on the Strategic Framework Plan in clause 02.04-1).
- Boulevards (as defined in clause 02.03).

Avoid high-rise development unless specified by a schedule to the Design and Development Overlay.

Mid-rise development

Direct mid-rise development to the following locations:

- Appropriate locations within major and neighbourhood activity centres; major employment precincts, commercial and industrial land (as defined in clauses 02.01 and 11.03-1L).
- Major regeneration areas (as shown on the framework plan in clause 02.04-1)
 - Alphington Paper Mills site.
 - Gas Works site in North Fitzroy.
 - South-west Cremorne (land south of Gough Street).
- Appropriate locations along the following Boulevards that are outside activity centres:
 - Alexandra Parade.
 - Hoddle Street.
 - Victoria Parade.

Support mid-rise development that:

- Contributes to a high-quality built form.
- Demonstrates architectural design excellence.
- Provides a transitional scale to the buildings in adjoining low-rise neighbourhoods to protect amenity and avoid visual bulk.
- Improves movement through the site.
- Provides active frontages at street level.
- Contributes to an improved public realm.

Other references to mid-rise are made in:

- Clause 02.01 (Context) Built environment and heritage
- Clause 02.03 (Strategic directions) Activity Centres

- Clause 11.03-1L (Activity centres)

As exhibited, Clause 02.01 states:

The existing scale of development within the municipality is mostly characterised by low to mid-rise buildings, with some taller buildings (above 14 storeys) which are anomalies to the mid-rise character.

Before the Hearing, Council submitted it was its intention to delete the words '(above 14 storeys)'.³¹

4.2 Background

Clause 21.05-02 (Urban design) of the Planning Scheme states:

Looking at the built form of the whole municipality, a clear picture emerges of a low-rise urban form punctuated by pockets of higher development. The low-rise urban form that constitutes much of the municipality is mostly in the one to two storey range, with some three and four storey buildings. The pockets of taller buildings include the high-rise housing estates, some industrial (or ex-industrial) complexes and the landmark towers, spires and signs. Activity centres being generally Victorian and Edwardian in origin, are generally two storeys, with some higher signature buildings.

It includes 'Objective 17' which states:

To retain Yarra's identity as a low-rise urban form with pockets of higher development.

Strategies relating to this objective include:

Strategy 17.1 Ensure that development outside activity centres and not on Strategic Redevelopment Sites reflects the prevailing low-rise urban form.

Strategy 17.2 Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:

- Significant upper level setbacks
- Architectural design excellence
- Best practice environmental sustainability objectives in design and construction
High quality restoration and adaptive re-use of heritage buildings
- Positive contribution to the enhancement of the public domain
- Provision of affordable housing.

The term low-rise is used frequently throughout the Planning Scheme (and the Amendment), and as a general principle, describes the residential areas of Yarra. These areas are typically included in residential zones, with mandatory height limits within the zone controls which limit building height to two to three storeys.

With the exception of Clause 21.12 (Local areas) Johnston Street Activity Centre - Vision, the current LPPF does not use the term mid-rise.

A number of Design and Development Overlay (DDO) schedules in the Planning Scheme use the term mid-rise.

³¹ Document 16

4.3 The issues

The issues are whether the:

- terms low-rise, mid-rise and high-rise are appropriate
- strategies in Clause 15.01-2L (Building design) regarding building height are appropriate.

4.4 Evidence and submissions

Council submitted the Amendment does not define the terms low-rise, mid-rise and high-rise. This was because what is low-rise, mid-rise or high-rise is a relative assessment of scale depending on the location of the site, its surrounds and its strategic context.

Council submitted:

- it has set a vision for its municipality which, in built form terms, comprises low-rise neighbourhoods with mid-rise form in designated locations
- the evidence of Mr Szafraniec is that the housing and employment needs of Yarra can be met within this built form vision
- the meaning of mid-rise without specific metrics means:
 - more than low-rise, where low-rise in Yarra's neighbourhoods is generally 1-2 storey Victorian scale (contemporary 3 storey)
 - less than high-rise, noting that Clause 15.01-2L (Building design) seeks to avoid high-rise development unless specified by a DDO schedule
- the built form work undertaken to date sets the appropriate metrics and portrays what mid-rise means in Yarra
- it does not want the scale of high-rise throughout its municipality and the only locations where it is to be located is where it has been approved through a DDO.

Council said a substantial body of strategic work has been undertaken across many of Yarra's activity centres and major regeneration areas to analyse their distinctive physical and strategic contexts. Much of this work is now reflected in permanent and interim controls on development which have been tailored to the specific context and contemplate varying scales of development in response to that context.

Council submitted that the term mid-rise is not intended to be a 'one size fits all' in Yarra. For example, mid-rise is variably used to describe building heights in different activity centres ranging from 3-4 storeys in the Smith Street Major Activity Centre (MAC) (interim DDO36), 4 storeys in Precinct 2 of Swan Street MAC (DDO26) and up to 12 storeys in Precinct 1 of Bridge Road MAC. Council said what is meant by mid-rise development is clearly dependent on the specific activity centre and the precinct within which a site lies.

Council cited multiple Victorian and Civil Administrative Tribunal (VCAT) decisions³² that demonstrated while heights ranging from 3 to 18 storeys have been described as mid-rise, an appropriate mid-rise scale of development will vary depending on the strategic and physical context of any given site or precinct.

³² Document 125, paragraphs 23-27

In summary, what is meant by the terms low-rise, mid-rise and high-rise is to be gleaned from applicable built form controls, and in the absence of built form controls from the physical and strategic context.

Council relied on the evidence of Ms Ancell who assessed the question of building height and considered:

A number of submissions were received on building heights. It is not the role of Amendment C269 to identify building heights for individual sites, as this work arises from the preparation of structure plans and built form frameworks, but rather to set a policy framework which sets out the range of factors that must be considered in identifying appropriate heights. The proposed clauses relating to Activity Centres (11.03-1L), Building Design (15.01-1L), Urban Design (15.01-2L), Heritage (15.03-1L) and Location of Residential Development (16.01-2L) address heights and development density in a general sense. I am of the view that these provide appropriate guidance for future precinct-specific strategic planning work such as structure plans and built form frameworks that identify building heights.³³

Ms Ancell noted that the context and role of an activity centre was an important consideration in determining building heights in that centre. She recommended the second building height strategy in Clause 15.01-2L (Building design) should be amended to state:

Ensure that development reflects the predominantly low-rise character of the area, except in the following locations where a range of building heights should be provided that respond to their context and role: ...

Council did not support Ms Ancell's recommendation and said the additional text risks creating confusion. It cited examples where a site may be in a:

- location where a DDO nominates a single height not a range of heights
- "mid-rise" location where a height should largely correspond with surrounding heights rather than a variation or range of surrounding heights.

Many submissions took issue with the terminology of mid-rise and raised concerns that it either:

- creates expectations of too much height in activity centres such as Brunswick Street MAC or smaller centres such as the Neighbourhood Activity Centres (NACs) and Local Activity Centres (LACs), or
- does not encourage enough height on well located development sites.

YPC members considered the term mid-rise was too vague. They said without clear definitions of what mid-rise means then the term would lead to confusion and increased conflict at VCAT.

Many submitters raised similar concerns, and noted variously:

- the terms low-rise, mid-rise and high-rise should be defined and quantified with fixed storey numbers or fixed heights based on average storey heights
- setting clearly defined terminology did not mean setting mandatory heights
- the assessment of what is an appropriate height for any particular location is not hampered by the use of words with clear definition
- there should be a consistent use of terms such as low-rise, mid-rise and high-rise across the whole of Yarra
- it is confusing when different heights are applied to an area designated as mid-rise
- not providing definitions is misguided at best, misleading, or at worst deceptive

³³ Ms Ancell evidence statement, Document 100, page 50

- without clear definitions stakeholders will assume different meanings and argue their interpretation is correct.³⁴

The YPC called evidence on this matter from Ms Vines and Mr Holdsworth.

Ms Vines said that building heights needed to be clearly defined if terms such as low-rise, mid-rise and high-rise are to be used. She recommended interim height guidelines in circumstances where there was no DDO as follows:

- low-rise 2 - 3 storeys (NACs and LACs)
- mid-rise 4 - 6 storeys (MACs)
- high-rise 7- 8 storeys (brown field sites)
- very high-rise 9 storeys (only on strategic urban renewal sites such as Fitzroy gasworks and CUB site).

Mr Holdsworth said the terms should be defined as meaning:

- low-rise maximum 3 storeys (11 metres)
- mid-rise maximum 6 storeys (20 metres residential and 25 metres commercial)
- high-rise greater than 6 storeys.

Mr Holdsworth considered all NACs and LACs should be low-rise and the heights for low-rise and mid-rise should be mandatory maximums.

Ms Vines and Mr Holdsworth did not provide a detailed analysis to justify these metrics.

In cross-examination, Mr Holdsworth conceded that:

- policy should not be mandatory
- MACs should not be limited to 6 storeys
- NACs already include sites and locations which are more than 3 storeys, which can support more than 3 storeys and which are identified in built form controls for more than 3 storeys
- LACs may be able to support more than 3 storeys.

UEM Sunrise submitted there should be greater certainty about building heights but the term mid-rise inappropriately constrained the development of its land.

UEM Sunrise owns land at 21-53 Hoddle Street. The site is within the C1Z and has a total area of approximately 5,400 square metres. Clause 15.01-2L (Building design) identifies the site as an appropriate location for mid-rise development as Hoddle Street is a designated boulevard outside an activity centre. UEM Sunrise submitted the site has all the characteristics to support intensive redevelopment and there were no significant constraints impacting the site.

UEM Sunrise considered the strategy to *“Avoid high rise development unless specified by a schedule to the Design and Development Overlay”* was too restrictive in circumstances where it was uncertain whether a DDO would ever be prepared for its site or the broader Hoddle Street boulevard. It said planning policy should not be limiting the site to mid-rise development because it had potential for greater height than mid-rise.

UEM Sunrise submitted that Clause 15.01-2L should be changed to:

- include the additional words proposed by Ms Ancell (or wording to similar effect)

³⁴ Documents 195, 202 and 207

- delete the strategy “Avoid high rise development unless specified by a schedule to the Design and Development Overlay”
- modify the strategies relating to mid-rise development as follows:

Taller Mid-rise development

Direct taller mid-rise development to appropriate the following locations, such as:

- Appropriate locations within major and neighbourhood activity centres; major employment precincts, commercial and industrial land (as defined in clauses 02.01 and 11.03-1L).
- Major regeneration areas (as shown on the framework plan in clause 02.04-1)
 - Alphington Paper Mills site.
 - Gas Works site in North Fitzroy.
 - South-west Cremorne (land south of Gough Street).
- Appropriate locations along the following Boulevards that are outside activity centres:
 - Alexandra Parade.
 - Hoddle Street.
 - Victoria Parade.

Support taller mid-rise development that:

- Contributes to a high-quality built form.
- ...

Council did not agree with submissions or evidence that sought a metric definition of low-rise, mid-rise or high-rise in order to place a limit on height for new development through policy in the Planning Scheme. It said:

- the metric of the height and whether it is mandatory or discretionary should be found in the applicable zoning or overlay provisions
- the definitions proposed by Ms Vines and Mr Holdsworth were inconsistent with the range of heights already approved and gazetted in various DDOs throughout the municipality which support mid-rise development - including in MACs and NACs such as Queens Parade and Johnston Street
- such definitions would place unreasonable constraints on development opportunities in activity centres in Yarra where most housing and employment growth is to be focused pursuant to State and local policy
- in no circumstance would it be appropriate to impose mandatory heights through policy.

Council submitted that it would not be useful, or appropriate, to adopt standard definitions that would apply across the whole of the municipality, as the expectation of height and scale necessarily varies between areas and between activity centres, depending on their physical and strategic context.

Council noted that the future scale of LACs will be informed by the expectation that development respects the character of the centre (Clause 11.03-1L).

Council did not agree with UEM Sunrise that the term mid-rise should be replaced with ‘taller’ because ‘taller’ has no upper limit. It said that the Amendment contemplates an upper limit, namely, to avoid high-rise development unless specified in a DDO schedule.

4.5 Discussion

It is appropriate for Council to set an overall vision for the development of the municipality and the Panel accepts that this is the intent behind the use of the terms low-rise, mid-rise and high-rise throughout the MPS and various planning policies.

The Panel notes that there is no upper limit for building heights within current policy, which only refers to low-rise and higher development/taller buildings. Current policy states that development on strategic redevelopment sites (SRSs) or within activity centres is preferred to be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits. The proposed policy will create a limit of mid-rise in specified locations and clearly identify that high-rise is not acceptable unless in accordance with a DDO schedule. This will provide more certainty and direction regarding where and in what circumstances 'higher development' may be appropriate.

The threshold of 5-6 storeys in the current Planning Scheme is no longer appropriate having regard to the type of development occurring in the last decade and the contemporary built form frameworks and associated built form controls that Council has been progressing for activity centres and major regeneration sites. Several of the DDO schedules use the term mid-rise and in that regard the references to mid-rise in the MPS and PPF are 'catching up' with the rest of the Planning Scheme.

The Panel agrees with Council that:

- the terms low-rise, mid-rise and high-rise are relative rather than prescriptive
- deleting reference to the phrase 'above 14 storeys' in Clause 02.01 would help to clarify that the upper limit to mid-rise is not 14 storeys.

It is acceptable to have a relative height framework within planning policies to help direct Council's overarching vision. In some ways, the housing change areas in the Housing Strategy also provide a relative framework. For example, the Housing Strategy does not quantify what 'moderate change' is by defining growth as dwellings per hectare or some other metric.

Relative scales help explain broad principles, which are appropriate in the MPS and PPF. The Panel does not agree with submitters and the experts who considered that the terms low-rise, mid-rise and high-rise should be strictly defined. It agrees with Council that the metrics proposed by Ms Vines and Mr Holdsworth are inconsistent with the range of heights already approved and gazetted in various DDO schedules throughout the municipality and would place unreasonable constraints on development opportunities in Yarra.

The Panel appreciates the concerns of submitters who requested more certainty, however it is important to remember that the policies are not height controls. The Panel agrees with Council that the metric of the height and whether it is mandatory or discretionary should be found in the applicable zoning or overlay provisions.

The MPS recognises that mid-rise and some taller buildings are found in pockets in activity centres, along main roads and in areas transitioning from industrial to mixed use (in Clause 02.01).

Further, the MPS and local policies direct mid-rise buildings to appropriate locations within MACs and NACs (Clause 02.03, Clause 11.03-1L and Clause 15.01-2L), as well as employment areas, major regeneration areas and along boulevards.

As contemplated by Clause 02.03 (Strategic directions), refinement of future mid-rise scale in MACs, NACs, employment areas, major regeneration areas and along boulevards will be undertaken through structure planning and implementation of DDO schedules. Council has significantly progressed its built form work program to introduce DDO schedules and the Panel supports the continuation of this program. DDO schedules will play an important role in implementing the MPS and PPF. The Panel makes no comment about the detailed content of the DDO schedules as this is a separate process.

The Panel agrees with Council that there will be some locations within MACs and NACs which will retain a low-rise built form but other parts of MACs and NACs will support mid-rise forms. This is in accordance with good site responsive built form controls. The term 'mid-rise' may include a range of heights appropriate to the physical and strategic context of the location.

The Panel accepts Council's position that high-rise development should only proceed if specified by a DDO schedule. It is appropriate that high-rise development is:

- not prohibited by policy
- directed to appropriate sites
- considered within the context of the site and broader strategic planning considerations
- managed through a DDO or similar overlay control.

For the reasons outlined above, the Panel does not agree with the proposed changes to Clause 15.01-2L (Building design) recommended by UEM Sunrise. It agrees, however, that there is scope for some qualification to the second strategy under 'Building heights'. The Panel considers the strategy should be modified to state:

Ensure that development reflects the predominant low-rise character of the area, except in the areas below where building heights should respond to the physical and strategic context of the site:

This wording provides further guidance but addresses the concerns of Council with respect to the wording provided by Ms Ancell. The additional words are consistent with Council's stated approach of how mid-rise buildings should be assessed where there is no DDO and is consistent with the wording in Clause 02.03 (Strategic directions) which contains the following strategic direction:

Ensure mid-rise buildings are in accordance with any building height requirements set out in the relevant zone or overlay, or, where there are no building height requirements specified, having regard to the physical and strategic context of the site.

4.6 Conclusions and recommendations

The Panel concludes:

- The terms low-rise, mid-rise and high-rise are relative rather than prescriptive.
- It is acceptable to have a relative height framework within planning policies to help direct Council's overarching vision.
- The term 'mid-rise' may include a range of heights appropriate to the physical and strategic context of the location and this is in accordance with good site responsive built form planning.
- The proposed policy will create a limit of mid-rise in specified locations and clearly identify that high-rise is not acceptable unless in accordance with a DDO schedule.
- The metrics of building height controls and whether they are mandatory or discretionary should be found in the applicable zoning or overlay provisions.
- The second strategy under 'Building heights' in Clause 15.01.2L (Building design) should be modified.

The Panel recommends:

1. Amend Clause 15.01-2L (Building design) to:

a) revise the second strategy in under the heading 'Building heights' to state:

- *"Ensure that development reflects the predominant low-rise character of the area, except in the areas below where building heights should respond to the physical and strategic context of the site:
..."*

5 Activity centres

5.1 What is proposed?

Clause 11.03-1L (Activity centres) proposes:

- a hierarchy of activity centres including:
 - five MACs
 - eight NACs
 - five LACs
- maps showing the location and boundary for each nominated activity centre
- an objective and strategies that apply to all activity centres
- strategies that apply to individual activity centres or groups of activity centres.

5.2 Background and relevant documents

Council submitted that Planning Scheme Review concluded the current Planning Scheme lacked an overarching, evidence-based narrative for projected housing and employment growth in the municipality. As growth of both housing and employment continues, it is expected that there will be competition for land and other assets in Yarra. The Planning Scheme Review noted it is important to carefully manage and protect certain assets and land, and facilitate growth in locations that will provide benefit for current generations but also be sustainable into the future.

The Planning Scheme Review identified a lack of spatial plans for major activity and neighbourhood centres and further suggested the roles and strengths of activity centres needed to be better defined and strategies to meet the projected demand for retail and other facilities needed to be identified.

Council submitted that the proposed activity centres policy was based on:

- Plan Melbourne
- the SEES report
- the Activity Centres Report
- the Housing Strategy.

Council has prepared a range of Structure Plans and Built Form Frameworks for various activity centres. These have informed separate Planning Scheme amendments that have introduced permanent and interim DDO schedules to manage built form outcomes in activity centres. These DDO schedules have focussed principally on the MACs and some of the NACs.

5.3 The issues

The issues are whether the:

- proposed activity centre hierarchy is appropriate
- proposed designation of each activity centre is appropriate
- boundaries of the designated activity centres are appropriate
- objectives and strategies for the activity centres are appropriate.

5.4 Activity centre hierarchy and designation

(i) Evidence and submissions

Council submitted the activity centres hierarchy and designations were based on SEES and the Activity Centres Report.

Table 6 shows the activity centre designations as outlined in the current Planning Scheme, SEES, the Activity Centres Report and the Amendment.

Table 6 Activity centre designations

Centre	Current Planning Scheme	SEES	Activity Centres Report	Amendment C269
Bridge Road	MAC	MAC	MAC	MAC
Brunswick Street	MAC	MAC	MAC	MAC
Smith Street	MAC	MAC	MAC	MAC
Swan Street	MAC	MAC	MAC	MAC
Victoria Street	MAC	MAC	MAC	MAC
Gertrude Street	NAC	NAC	NAC	NAC
Heidelberg Road, Alphington	NAC	NAC	NAC	NAC
Johnson Street (east of Smith Street)	NAC	NAC	NAC	NAC
Johnson Street (west of Smith Street)	NAC	MAC*	MAC*	NAC
Nicholson Street, North Fitzroy	NAC	NAC	NAC	NAC
Rathdowne Street, Carlton North	NAC	NAC	NAC	NAC
St Georges Road, North Fitzroy	NAC	NAC	NAC	NAC
Queens Parade	NAC	NAC	NAC	NAC
Berry Street/Ramsden Street, Clifton hill	NAC	LAC	LAC	LAC
Lygon Street, Carlton North	NAC	LAC	LAC	LAC
Nicholson Street (south), Carlton North	NAC	LAC	LAC	LAC
Rathdowne Street (south), Carlton North	NAC	LAC	LAC	LAC
Spensley Street, Clifton Hill	NAC	LAC	LAC	LAC

* Included as part of the Brunswick Street MAC in these reports

Source: Ancell evidence statement, page 23

Council submitted:

- the five existing and proposed MACs are identified as MACs in Plan Melbourne
- MACs are defined in Plan Melbourne as:

Suburban centres that provide access to a wide range of goods and services. They have different attributes and provide different functions, with some serving larger subregional catchments. Plan Melbourne identifies 121 major activity centres.

- NACs are defined in Plan Melbourne as:
 - Local centres that provide access to local goods, services and employment opportunities and serve the needs of the surrounding community.
- the network of proposed MACs and LACs is largely a policy neutral translation from Clause 21.08 (Neighbourhoods) of the Planning Scheme
- five existing NACs are proposed to be reclassified as LACs based on the recommendations of the SEES report and the Activity Centres Report.

Council submitted the Activity Centres Report considered five of the existing NACs played a lower order and more local role in the activity centres network. These included:

- Carlton North – Rathdowne Street
- Carlton North – Lygon Street, south of Pigdon Street
- Carlton North / Fitzroy North – Nicholson Street, north of Curtain Street and at the junction of Lee Street
- Clifton Hill – Spensley Street at the intersection with Berry Street
- Clifton Hill - Berry Street at the junction with Ramsden Street.

The Activity Centre Report states:

These small local centres offer a limited range of local services such as cafes, restaurants, milk bar or newsagent. In many cases the amount of local weekly shopping has declined in these centres as this type of shopping has shifted to supermarkets in larger centres.³⁵

The SEES report makes recommendations in relation to the role of Yarra's activity centres. Strategy 1 of the SEES sets out designations for the activity centres as MACs, NACs or LACs. The MACs are identified by their Plan Melbourne designations. The strategy does not include specific definitions of NACs and LACs.

The SEES report includes directions to manage employment growth in Yarra and identifies the MACs for significant growth in retail and commercial floor space. The smaller NACs and LACs are likely to accommodate modest growth in retail and commercial floor space.

The Housing Strategy proposes that residential growth should be directed to the MACs and parts of the NACs which can accommodate growth. Council submitted the approach of directing growth to activity centres is consistent with State policy, provides housing close to employment, transport and services and is generally consistent with concepts such as the 20 minute city proposed in Plan Melbourne. This approach helps to protect the neighbourhood character of established residential areas in the municipality, in particular those areas with heritage significance.

Council said the Activity Centres Report notes:

- analysis in the Housing Strategy and SEES confirms the role of activity centres as a location for commercial and residential development to accommodate jobs and population growth
- the combined analysis as well as capacity monitoring by SGS Economics & Planning indicates that the centres have sufficient capacity to accommodate growth within the areas of currently zoned land
- MACs will play an important role as locations for additional housing and jobs

³⁵ Activity Centres Report, page 86

- retail precincts of Smith Street, Victoria Street, Bridge Road and Swan Street have the largest employment floor space capacities, while Brunswick Street appears to have limited capacity and less scope for employment growth.
- activity centres will be part of a mix of locations and precincts which accommodate growth in employment, with other locations including employment precincts at Gipps Street precinct and in Cremorne and other former industrial areas
- the activity centre network will play an important role by accommodating housing development relieving pressure for encroachment into other employment areas
- the majority of housing growth will be accommodated in activity centres or mixed use areas adjoining the activity centres
- MACs will see the most significant residential growth and major change, particularly in those precincts less constrained by heritage or other design constraints
- NACs will play a more nuanced role which will vary depending on the nature of each centre and the constraints or opportunities of their context
- some of the NACs have capacity to accommodate employment and housing growth in identified precincts – for example, the former Alphington Paper Mill redevelopment will accommodate substantial new commercial and retail floor space
- the Planning Scheme does not distinguish between the larger neighbourhood centres which serve significant local catchments and the small local centres
- LACs will play a limited role in providing for housing and local employment
- the level of change in the activity centres will be determined by the context of each centre
- the location, design and scale of development in each activity centre will be influenced by and in some cases constrained by heritage and local character considerations – which will be addressed by existing structure plans or local area plans and proposed building form analysis and associated Planning Scheme provisions such as the DDO.

Ms Ancell supported the assessments and conclusions in the SEES, Activity Centres Report and the Housing Strategy with respect to activity centres. She agreed with the proposed hierarchy and designation of all the activity centres.

Ms Ancell considered Direction 5.1 in Plan Melbourne (Create a city of 20 minute neighbourhoods) gives particular emphasis to NACs when it states:

Neighbourhood activity centres are an integral part of the city's vibrant community life and critical to the creation of 20-minute neighbourhoods. These high streets and specialised strips of shops, cafes, small supermarkets, service businesses, community services and public spaces serve the needs of the surrounding community and provide a focus not only for local jobs but also for social interaction and community participation.

...

The attributes of and opportunities for neighbourhood activity centres at the local level vary across Melbourne. That is why local communities should lead the planning of their own centres.

Where centres are well established or communities are seeking to protect the unique character of their centres (such as protecting heritage buildings or access to public land or open space to achieve community benefit), they should be assisted in determining the desired built form outcomes.

Ms Ancell agreed that the five proposed LACs are too small to be considered NACs and do not contain the range of uses that would enable them to play a role as centres within the 20 minute neighbourhood network. She said creating the LACs tier within the hierarchy was a more nuanced approach than the current Planning Scheme and appropriately reflected the very small scale of these centres.

Many submissions were concerned about the expectations for substantial growth in activity centres and the potential impact on the special heritage character of the centres. They were concerned that growth in the activity centres would overwhelm the existing built form.

For example, The 3068 Group submitted the 'activity centre model' was a poor fit for Yarra and that development should not be concentrated into the activity centres but to former industrial sites.

In response, Council submitted:

- activity centre policy is State government policy as identified in Plan Melbourne and Clause 11, and it is not an option for Yarra to "opt out" of activity centre policy
- concentrating development into activity centres appropriately accommodates growth in Yarra but protects the residential neighbourhoods
- the objectives of planning in the PE Act include "*to facilitate development,*" and accordingly, planning schemes must provide for change
- height and setback controls can provide appropriate protection for the valued heritage streetscapes within Yarra's activity centres and this is evident in a range of DDO schedules already prepared by Council.

A number of submissions objected to the proposed designation of specific activity centres.

Rathdowne Street NAC

Ms Vivian (Submission 231) submitted that the Rathdowne Street NAC should be designated a LAC because:

- it is the smallest of the NACs and is a completely different scale to centres such as Johnston Street
- it has a good range of food shops and primarily serves a local function
- there are only 41 properties in the Commercial 1 Zone (of which five are residential)
- a large proportion of the centre is residential (Neighbourhood Residential Zone – Schedule 1 (NRZ1)) and the whole of the centre is covered by a Heritage Overlay
- the streetscape has a highly valued heritage character
- all other NACs are on tram routes, whereas Rathdowne Village is only on bus routes
- if the centre is designated as a NAC it will attract greater pressure for development.

Ms Vines agreed the Rathdowne Street NAC should be reclassified as a LAC because of the scale of the centre relative to other NACs and it has significant heritage streetscapes.

Council submitted that the centre is already designated as a NAC in the Planning Scheme and it provides good access to local goods, services and employment opportunities and serves the needs of the surrounding community. It affirmed that the centre was appropriately designated as a NAC and said that future development of the centre will be guided by a range of planning policies, zoning and overlay controls.

Nicholson Street NAC

Ms Vivian submitted the Nicholson Street NAC should be designated a LAC because:

- it is one of the smaller designated NACs
- the retail strip is largely on the west side of the street
- only remnants of retail exist on the eastern side of Nicholson Street which consist of areas within the General Residential Zone (GRZ) and the Mixed Use Zone
- it has lower order shops and serves a local function.

Council responded that the centre was appropriately designated as a NAC.

No expert witness contested the designation of this centre as a NAC.

Heidelberg Road, Alphington NAC

Ms Dane (Submission 328) and AFADA (Submission 222) objected to the section of Heidelberg Road between Parkview Road and Como Street within the NAC. Ms Dane submitted that it should be within a LAC.

Clifton Hill LACs

Ms O'Brien (Submission 13) and Ms Jasen (Submission 405) objected to including the two LACs in Clifton Hill (Spensley Street and Berry Street/Ramsden Street). They submitted these locations are too small to be included as activity centres. They noted:

- the area is well serviced by other nearby activity centres, especially Queens Parade
- a few exiting shops does not constitute an activity centre
- the designation of the LACs will encourage substantial redevelopment
- the area is generally low scale residential with important heritage character and it is not appropriate for significant redevelopment.

Council noted that the two centres are currently designated as NACs in the Planning Scheme (Clause 21.08) and the Activity Centres Report has redesignated them as LACs having regard to their small size and very local role and function.

No expert witness contested the designation of these centres as LACs.

(ii) Discussion

The activity centre hierarchy is based on a substantial volume of work completed by Council and is consistent with the State and metropolitan planning policy, including Plan Melbourne. The hierarchy is generally consistent with existing planning policy except for the introduction of a third tier of centres – the LACs. It is reasonable and appropriate to distinguish the very low order NACs in the existing Planning Scheme as LACs because, as demonstrated, these centres clearly serve a different role and function compared to the other NACs.

Significant employment and housing growth is anticipated in the MACs and this is consistent with the expectations of Plan Melbourne. The Panel agrees with Council that it is not an option to 'opt out' of State and metropolitan planning policy. What is important is how growth is managed and has regard to the local character of the centres, particularly the heritage character in these centres.

Many of the concerns expressed in submissions about the designation of activity centres were couched in the context of the potential implications for future development in the centre. For example, there was a strong impression that if a place was designated as a NAC then there would be pressure for more intensive development than if it was a LAC. Similarly, if a place was within a

LAC then there was an impression that there would be more intensive development than if it was not within a designated activity centre.

The Panel has considered the designation of each centre having regard to the role and function of the centre, not the possible future redevelopment of the centre. The future development of each centre is a matter that should be addressed through specific policies and controls. These policies and associated controls can manage the appropriate development of a centre within the context of the opportunities, constraints and character of the location.

Not all activity centres within the same tier in the hierarchy are the same. For example, the Johnson Street NAC is different to the Queens Parade NAC. These differences are manifested in the specific policies and built form controls for these centres. It follows that if a specific centre is designated as a NAC then this does not imply equivalent development potential to another NAC. Each place has its own character and context and should be considered accordingly.

Similarly, not all parts of the same activity centre may have the same potential for development. This is demonstrated across many of the existing DDO controls in the MACs and NACs in Yarra (permanent and interim controls). It is common for there to be a wide range of built form outcomes across an activity centre. This demonstrates a considered approach to the built form of the centre that respects the constraints and preferred outcomes.

Within this context, the Panel considers the proposed designation for each activity centre to be acceptable.

The Panel acknowledges the Rathdowne Street NAC is different to some other NACs with respect to its scale, consistent fine grain and low-rise character, comparatively limited access to public transport and a significant proportion of the centre is in the NRZ1 (although many properties in the NRZ are used for non-residential purposes). These characteristics demonstrate a unique character rather than mitigate the capability for the centre to be a NAC.

The future development potential for this centre is significantly less than for some other NACs (such as Johnson Street). This is not a reason to not designate the centre as a NAC if it meets the required threshold as a NAC. Appropriate planning policy and controls should ensure that the special qualities of this NAC are retained.

The Panel considers it is appropriate to designate the Rathdowne Street, Nicholson Street, and Heidelberg activity centres as NACs.

The Rathdowne Street activity centre meets the required threshold for this tier in the hierarchy.

The Nicholson Street activity centre demonstrates obvious characteristics of a more 'typical' NAC – including the scale, range of land uses and a tram line.

The Heidelberg Road activity centre is consistent with its current designation in the Planning Scheme and its role and function described in the Activity Centres Report.

The Panel accepts it is appropriate to designate the Spensley Street and Berry/Ramsden Street activity centres as LACs. These centres are too small to exhibit the necessary range of services and facilities to be classified as NACs, however they are entirely in the Commercial 1 Zone and it is reasonable to designate them as activity centres to ensure appropriate policy can manage their growth within the local context.

(iii) Conclusions

The Panel concludes:

- The proposed activity centre hierarchy is based on sound research and is generally consistent with State and metropolitan planning policy.
- It is appropriate to reclassify the five small existing NACs to a new third tier of activity centre (LAC).
- The proposed designation of each activity centre is appropriate.

5.5 Activity centre boundaries**(i) Evidence and submissions**

Council referred to the current activity centre boundaries depicted in Clause 21.08 (Neighbourhoods) and Figure 1 of Clause 21.03 (Vision) as ‘balloons’ or ‘sausages’. It submitted one of the outcomes of the Amendment is to more accurately delineate the boundaries of each activity centre. It said the Activity Centres Report clearly delineates the boundaries of each activity centre based on PPN58.

PPN58 sets out ‘Activity Centre Boundary Criteria’, which have been developed for use by councils to assist in defining their activity centre boundaries through structure planning. The criteria include:

- a) Consider the following issues in determining the potential location of an activity centre boundary:
 - the location of existing commercial areas and land uses
 - the location of existing government and institutional areas and land uses
 - the location of existing areas of public open space
 - commercial and residential needs
 - environmental and flooding constraints
 - heritage constraints
 - availability of strategic redevelopment sites, both existing and potential
 - the location of residential areas, including whether they provide significant redevelopment opportunities or constraints for the centre
 - consideration of physical barriers and opportunities for their improvement
 - proximity to public transport, especially fixed rail (train or tram)
 - the location of existing and potential transport infrastructure including fixed rail, buses, bicycle paths, car parking areas and modal interchanges
 - walkability – opportunities to provide for and improve walkability within 400 to 800 metres from the core of the centre (depending on topography and connectivity)
 - consistency with State policy
 - consistency with local policy and Municipal Strategic Statement or Municipal Planning Strategy where relevant (both referred to in this practice note as MSS)
 - impacts of the boundary on other activity centre boundaries.
- b) In setting a boundary for an activity centre, include:
 - sufficient land to provide for the commercial (retailing, office, fringe retailing and support activities such as entertainment) activities needed over a 15 to 20 year time frame and then into the 30-year horizon

- residential areas that are integrated into the activity centre or surrounded by other uses that have a strong functional interrelationship with the activity centre even where limited development opportunities exist
 - key public land uses that have or are intended to have a strong functional interrelationship with the activity centre even where there are no or limited redevelopment opportunities
 - public open space areas that have or are intended to have a strong functional interrelationship with the activity centre.
- c) In setting a boundary for an activity centre, generally exclude:
- residential land encumbered by significant constraints (such as a Heritage Overlay) located at the edge of the activity centre.

Council submitted that the Activity Centres Report sets out a detailed assessment for each centre against this criteria. The report recommends that the application of the above criteria warrants the following land being included within the centre boundary for each activity centre:

- Commercial 1, Commercial 2, Mixed Use, Comprehensive Development Zones and civic uses fronting the main street of the retail core.
- Commercial 1 areas not fronting the retail street, but contiguous (generally behind) with Category 1 that do or could have a strong physical or land use connection to the retail core.
- Commercial 2 areas not fronting the retail street, but contiguous (generally behind) with Category 1 that do or could have a strong physical or land use connection to the retail core.
- Mixed Use areas that are contiguous with Category 1 and 2 areas and do or could have a strong physical connection to the retail core.
- Health [facilities].
- Public open space, community facilities and schools not fronting the main street of the retail core, with a strong functional inter relationship with the activity centre.
- Commercial 1 and Commercial 2 fronting a main road that intersects the main street of the retail core, and contiguous with land in another category.
- Residential areas that due to the surrounding uses, built form and road network are logically included.
- Large sites or areas with potential to be part of or contribute to an activity centre, if upgraded or redeveloped.³⁶

Council noted that several centres were designated in two or more geographic parts, however in practice they operated as a single centre. It said this was because of a variety of factors, including:

- some centres operate as a network of interconnecting centres such as the Brunswick Street, Smith Street, Johnson Street and Gertrude Street group of activity centres
- a general focus on existing commercially zoned land and exclusion of residential land (except where residentially zoned land included multiple non-residential uses)
- a local understanding of the centre.

Ms Ancell gave evidence that including the above land uses and zonings within the proposed activity centre boundaries was a logical and reasonable application of the PPN58 to these centres. She said the resulting land within activity centres sufficiently provides for both the relevant medium and long term planning horizons specified in the PPN58.

³⁶ Activity Centres Report, Sections 7 to 9

A number of submissions objected to the location of the boundary of specific activity centres.

Swan Street MAC

Several submitters objected to including the land within the Mixed Use Zone north of Richmond Station bound by Botherambo Street, Tanner Street, Punt Road and Stewart Street ('the mixed use land') within the Swan Street Activity Centre. They submitted:

- there was significant confusion in the exhibited documents because the map associated with Clause 11.03-1L (Activity centres) did not show the mixed use land within the Swan Street Activity Centre, however the Strategic Framework Plan at Clause 02.04 showed the land within the activity centre
- there is no clear strategic intent for including the mixed use land within the Swan Street Activity Centre
- including the land within the activity centre boundary will have significant implications for the future development of the area because the Swan Street Activity Centre is a MAC and the area has been subject to increased pressure for redevelopment over recent years
- the heritage significance of the mixed use land would be threatened if it was within a MAC
- the area is removed from Swan Street and does not relate to the core of the activity centre.

Council acknowledged that there was an error in the exhibited documents. It agreed that the Explanatory Report did not expressly reference the boundary change to the Swan Street MAC, although it submitted that the Activity Centres Report was referenced and this report identifies the mixed use land within the Swan Street MAC.

Council submitted that the Swan Street Built Form Framework and the proposed DDO schedules prepared as part of Amendment C191 for Swan Street did not include the mixed use land because the purpose of Amendment C191 was to predominantly focus on properties along Swan Street spine and the built form of the mixed use land was different in typology and character to the built form of the Swan Street shopping strip.

Council said that Clause 21.12 exhibited as part of Amendment C191 annotated the mixed use land as "mixed activity – retail, residential". The Panel Report for Amendment C191 concluded:

Land north of Precincts 1 and 2 and land east of Precinct 4 needs further strategic work to better understand their relationship with the Activity Centre and should be designated accordingly.³⁷

It recommended the land be shown on the Swan Street Framework Plan in Clause 21.12 as 'Land subject to future strategic work'.

Council accepted that further strategic work in relation to future built form needs to be undertaken for the mixed use land and noted a resolution of Council on 3 August 2021 which commits Council to the necessary built form work.

Council acknowledged that Clause 11.03-1L does not currently include a description of the mixed use land or any specific strategies for the precinct but said that this will be updated following the completion of the strategic built form work foreshadowed by Council's resolution of 3 August 2021.

³⁷ Yarra PSA C191 [2020] PPV, page 41

Council submitted there was a sound strategic basis for including the mixed use land within the Swan Street MAC as part of the Amendment, including:

- the conclusions of the Activity Centres Report
- consistence with the boundary criteria in PPN58
- the zoning of the land (Mixed Use)
- close proximity to Richmond Station and Swan Street
- the mixed use character and built form which contrasts with the low-rise, residential area to the north
- the extent of change that has occurred in the area as evidenced by the permits issued and the change of use from industrial to office and residential uses.

Council submitted that the exhibited Swan Street Activity Centre Plan in Clause 11.03-1L should be amended to show the mixed use land within the Swan Street MAC with a description in the legend that states 'land subject to future strategic work'³⁸.

Council agreed with the submitters that the area has heritage significance, as recognised in the Heritage Overlay (HO332). It said the heritage significance of the area is not a bar to its inclusion in the Swan Street MAC but is an important matter which will influence appropriate built form controls and responsive future development.

Ms Ancell and Mr Szafraniec gave evidence confirming the suitability of inclusion of the mixed use land within the Swan Street MAC, having regard to the guidance in PPN58 and economic considerations.

Queens Parade NAC

The 3068 Group submitted that the entire length of Queens Parade is defined as an activity centre but only the shopping precinct (Precinct 4 in DDO16) qualifies as an activity centre. It said extending the boundary of the Queens Parade Activity Centre to include Mayors Park should be deferred until a heritage study is commissioned to determine whether the park requires heritage and significant landscape overlay protection.

In response, Council submitted the boundary of Queens Parade NAC is consistent with PPN58 in that it includes land that is a focus for housing, commercial, retailing, community, employment, transport, leisure, open space, entertainment and other services and are places where people shop, work, meet, relax and live.

Council submitted the PPN58 criteria includes public open space areas that have or are intended to have a strong functional interrelationship with the activity centre. It said Mayors Park is considered to have such a relationship with Queens Parade. Mayors Park is owned by Council and is located in the Public Park and Recreation Zone which seeks to recognise areas for public recreation and open space, protect and conserve areas of significance and provide for commercial uses where appropriate.

Ms Ancell agreed that the entire length of Queens Parade should be included in the NAC boundary to accord with PPN58. She recognised that NACs have more than just a retail role, and a range of land uses should be considered for inclusion in the boundary. Ms Ancell said the inclusion of Mayors Park was consistent with PPN58 and was appropriate.

³⁸ Document 209

Johnson Street NAC

CHS submitted that Precinct 7 (Trenerry Crescent) and Precinct 8 (Abbotsford Convent) should not be included in the Johnson Street NAC. It said Trenerry Crescent:

- is a sensitive riverside location with important industrial heritage
- is not suitable for large new developments
- was removed from Johnson Street and was not serviced by a busy through road or public transport.

Council submitted it is appropriate to include these areas because:

- they are identified in the Activity Centres Report as suitable for inclusion in the Johnson Street NAC
- the Trenerry Crescent land is within the Commercial 1 Zone and Mixed Use Zone and comprises higher density residential and office development with some potential for further growth
- the Abbotsford Convent provides a local and regional attraction for visitors to the area and, as recognised in PPN58, comprises public open space that has a strong functional inter-relationship with the activity centre and serves residents, workers and visitors in the activity centre.

Heidelberg Road NAC

The AFADA submitted it was concerned about the expansion of the Alphington NAC to include the Alphington Village precinct in the Alphington Papermill redevelopment site and also the site at 582 Heidelberg Road Alphington. It noted:

- there is considerable distance between the boundaries of Alphington Village and Alphington NAC, approximately 200-550 metres and an eight storey residential tower and six storey aged care facility will separate the two precincts
- the two precincts have different retail, car parking, streetscape and pedestrian access characteristics
- it is difficult to understand how the two precincts will operate as a single integrated activity centre.

Ms Ancell gave evidence that she supported the integration of the two precincts within a single NAC and this was appropriate having regard to the long term development of the former Paper Mill site in accordance with the approved Development Plan for the area.

Council submitted that the strategies in the activities centres policy for this centre differentiated between the various parts of the centre and noted the strategy that states:

Support development along Heidelberg Road, east of Parkview Avenue that achieves fine grain building frontages and contributes to a positive pedestrian street environment, through appropriate street wall height, upper level setbacks and landscaping.

Rathdowne Street NAC

Ms Ancell gave evidence that the boundary of the Rathdowne Street NAC should be extended to include a small cluster of businesses at 418 to 430 Rathdowne Street. These properties are on the east side of Rathdowne Street and north of Fenwick Street. Ms Ancell said these properties have similar characteristic to the properties in the southern part of the centre, in that they are predominantly businesses (primarily medical premises) with a couple of intervening dwellings.

Council did not support the extension of the Rathdowne Street NAC as recommended by Ms Ancell. It noted the Activity Centres Report recommended Fenwick Street as the northern boundary to the centre and this corresponded with the northern extent of the Commercial 1 Zone.

No submitter sought the extension of the Rathdowne Street NAC.

Rathdowne Street LAC

During the Hearing, Council noted a mapping error in the Rathdowne Street LAC. A mapping discrepancy was highlighted with respect to the land on the east side of Rathdowne Street to the north and south of Richardson Street.³⁹ In summary:

- the Activity Centres Report shows the activity centre including a single lot on the south side of the intersection of Rathdowne Street and Richardson Street and several lots on the north side of the intersection
- the maps in Clause 11.03-1L (Activity centres) and Clause 02.02 (Strategic Framework Plan) show a single lot on the north side of the intersection of Rathdowne Street and Richardson Street and several lots on the south side of the intersection.

Council submitted that the intent was for this part of the Rathdowne Street LAC to follow the boundary shown in the Activity Centres Report, however, for procedural fairness it would be inappropriate to apply those boundaries without further consultation with the affected landowners.

In the circumstances, Council invited the Panel to include only the properties on the north east and south east corner of the Rathdowne Street and Richardson Street intersection as part of the Amendment. Council did not provide a plan or the street addresses of the relevant properties.

The other parts of the Rathdowne Street LAC were unaffected.

(ii) Discussion

The Panel supports Council's objective to define the boundaries of activity centres with more precision than is shown in the current Planning Scheme. This is an appropriate outcome that will assist all stakeholders in understanding the extent of the activity centres. The methodology used to define the boundaries has generally been satisfactory and consistent with PPN58. The Activity Centres Report may have ideally included more detailed analysis and discussion, however it provided a reasonable assessment of the issues and approach to the determination of the proposed boundaries.

That said, the Panel found the boundaries of the Lygon Street LAC and Rathdowne Street (north) LAC not immediately obvious. For example, the Lygon Street LAC is focussed around the intersection of Lygon Street and Pigdon Street (in the Commercial 1 and Mixed Use Zone) and excludes land used for non-residential purposes (in the Neighbourhood Residential Zone) around the intersection of Lygon Street and Richardson Street. On the other hand, the Rathdowne Street LAC includes non-residential land uses (all within the Neighbourhood Residential Zone) focussed around the intersection of Rathdowne Street and Pigdon Street as well as Rathdowne Street and Richardson Street. It is unclear on what basis the land around the intersection of Richardson Street is included in one case (Rathdowne Street LAC), but excluded for the other (Lygon Street LAC).

³⁹ Document 125, Attachment 1

The Panel accepts there are a large number of non-residential uses scattered around many intersections in this part of the municipality. These often reflect the historic commercial uses in the area rather than the current zoning. The Panel acknowledges that no submissions objected to these LACs or sought changes to their boundaries. On this basis, it accepts the boundaries proposed by Council.

The Panel agrees with Council that the Rathdowne Street LAC boundary should be modified for the properties around the intersection of Rathdowne Street and Richardson Street. The mapping errors in this location mean it is appropriate to only include the properties on the north east and south east of this intersection at this time.

The mapping errors associated with the mixed use land north of Richmond Station have caused confusion and misunderstanding amongst many submitters. The Panel accepts the submission from Council that it was an error.

The Panel agrees with Council that further strategic work is required for the mixed use land. This is consistent with the conclusions and recommendations in the Panel Report for Amendment C191. This further work should explore the relationship between the mixed use land and the Swan Street Activity MAC, including:

- whether the mixed use land forms part of the Swan Street MAC or some other precinct
- the boundary of the precinct
- strategies in local policies to help guide the development of the area
- appropriate built form controls for the precinct.

The Panel makes no judgement about these matters. It is premature to suggest whether the mixed use land should be included within the Swan Street MAC at this stage.

The Panel does not agree that the heritage significance of the precinct should determine whether the land is included within the Swan Street MAC. There are many parts of MACs within Yarra that are of heritage significance, and heritage character is a matter that needs to be considered when formulating strategies and built form controls for an area.

The Panel is concerned with Council's approach to include the mixed use land within the Swan Street MAC without any specific strategies within the activity centres policy at Clause 11.03-1L that address this important precinct. It is desirable to have appropriate planning strategies for the site (and associated built form controls) simultaneous with its inclusion within the Swan Street MAC (or other specified precinct). There would be further confusion and uncertainty if the land was included within the MAC with no strategies or built form controls to help understand the intentions for the precinct.

On this basis, the Panel does not support the mixed use land being included within the Swan Street MAC at this stage. The land should be included subject to further strategic work foreshadowed by Council and considered as part of a separate Planning Scheme amendment.

The Panel agrees with Council that the proposed boundaries of the Queens Parade LAC, Johnson Street LAC and Heidelberg Road LAC are acceptable. The boundaries for these centres have been prepared having regard to the broader considerations in PPN58 and are appropriate.

The Panel does not support the northern extension of the Rathdowne Street NAC recommended by Ms Ancell. No submissions were made with respect to this issue and Council did not support the extension. Should Council wish to pursue this, then there should be further discussion with the

land owners of these properties (and the adjoining properties further to the north) and considered as part of a separate Planning Scheme amendment.

The Panel observes that the plans in Clause 11.03-1L are difficult to read and should be improved to provide greater clarity and certainty. If a plan contains more than one activity centre, it would be beneficial for the plan to clearly annotate which parts belong to a specific activity centre. This is particularly relevant in the case of the plan titled 'Major and Neighbourhood Activity centres in Fitzroy Plan' and the plans for the Lygon Street, Nicholson Street and Rathdowne Street LACs. The constituent parts of an activity centre should be apparent from the plans shown in the Planning Scheme rather than having to refer to the Activity Centres Report.

(iii) Conclusion and recommendations

The Panel concludes:

- It is appropriate to define the boundaries of activity centres more precisely than what is currently shown in the Planning Scheme.
- The methodology used to define the boundaries has generally been satisfactory and consistent with PPN58.
- The Rathdowne Street LAC boundary should be modified to show only the properties on the north east and south east corners of Rathdowne Street and Richardson Street intersection.
- It is not appropriate to include the mixed use land north of Richmond Station within the Swan Street MAC until further strategic work has been completed that investigates:
 - whether the mixed use land forms part of the Swan Street MAC or some other precinct
 - the boundary of the precinct
 - strategies in local policies to help guide the development of the area
 - appropriate built form controls for the precinct.
- The proposed boundaries of the Queens Parade LAC, Johnson Street LAC and Heidelberg Road LAC are acceptable.
- It is inappropriate to extend the northern boundary of the Rathdowne Street NAC.
- The plans in Clause 11.03-1L are difficult to read and should be improved to provide greater clarity and certainty.

The Panel recommends:

2. Amend the plans in Clause 11.03-1L (Activity centres):

- a) **for the part of the Rathdowne Street Local Activity Centre around the intersection of Rathdowne Street and Richardson Street to show only the properties on the north east and south east corners of the intersection within the activity centre.**
- b) **for the Swan Street Activity Centre to show the land within the Mixed Use Zone north of Richmond Station bound by Botherambo Street, Tanner Street, Punt Road and Stewart Street as not in the Swan Street Activity Centre but designated 'land subject to further strategic work'.**
- c) **to improve the general clarity of the images and provide greater certainty about the location of specific activity centres in circumstances where multiple activity centres are shown on the same plan.**

5.6 Activity centre objectives and strategies

(i) Evidence and submissions

Members of the YPC expressed concern about the impact of development on the activity centres. They said the emphasis on activity centres as places for growth means the heritage character of these centres and the surrounding low-rise residential areas will be put at risk. Particular concerns were expressed for MACs such as Brunswick Street, Smith Street, Bridge Road and Swan Street and NACs such as Gertrude Street, Queens Parade, Rathdowne Street, Nicholson Street and St Georges Road.

A central concern was the planning policies did not sufficiently guide built form outcomes for the activity centres, particularly regarding maximum building heights. Submissions noted that Clause 15.01-2L (Building design) directed 'mid-rise' development to MACs and LACs (as well as other specified locations outside of activity centres). There was concern that reference to mid-rise was open to wide interpretation and that more specific metrics were needed to provide greater certainty for outcomes in activity centres (and other areas).

Mr Holdsworth noted that Clause 11.03-1L (Activity centres) included the strategy:

Support high quality mid-rise buildings in major and neighbourhood activity centres as identified in the relevant Design and Development Overlay.

He said that:

- key to the implementation of the objectives and strategies in Clause 11.03-1L (Activity centres) was the inclusion of a DDO for each of the MACs and NACs
- the DDO schedules should be clear and unambiguous about building heights and massing and balance the maintenance of valued character and other attributes while defining the limits on built form
- until a DDO is in place to set out the agreed controls on the built form then *"a holding pattern based on straightforward but cautious general principles, may be the way forward"*.

In cross-examination, Mr Holdsworth conceded that in the absence of a DDO, it is appropriate to rely on the physical and strategic context of specific sites, consistent with VPP performance based assessment.

Ms Vines gave evidence that there should be a DDO for each activity centre, with DDO schedules having specific regard to appropriate height to reinforce the existing built form character, the context of the heritage buildings and streetscapes and the specific views to any identified landmarks. She said the recent Queens Parade DDO schedule introduced through Amendment C231 provided a good example of the desirable and localised detail appropriate for a particular activity centre.

In response, Council submitted the Amendment was not proposing to introduce specific built form controls. Rather it set out the policy framework to guide built form outcomes and Council's strategic work program in designated locations, such as activity centres, employment areas and along boulevards. It said the metrics for building heights (and other built form elements) would be managed through zones and overlays.

Council submitted it has been preparing built form frameworks (supported by heritage reviews) for numerous activity centres, including Swan Street, Bridge Road, Queens Parade, Victoria Street,

Brunswick Street, Smith Street and Gertrude Street to support built form controls and guide decision making on built form outcomes in those activity centres. The DDO schedules for these centres include controls that address height, setbacks and, where relevant, heritage considerations within the context of each particular activity centre. These have been (or will be) pursued through separate Planning Scheme amendments.

Council submitted that all of the MACs have proposed, interim or permanent DDO controls. The Johnson Street, Gertrude Street, Queens Parade and Heidelberg Road NACs also have proposed, interim or permanent DDO controls in place.

The Rathdowne Street, Nicholson Street and St Georges Road NACs do not have DDO controls and Council did not indicate that any planning was underway to prepare future DDO schedules for these activity centres. It said these NACs were designated as incremental change areas in the Housing Strategy. The Rathdowne Street NAC has a strategy in Clause 11.03-1L (Activity centres) that states:

Support low-rise development where it respects the heritage character of the area.

No DDO schedules exist or are proposed for any of the LACs.

With respect to the LACs, Council submitted:

- all of the LACs are generally within the C1Z or MUZ (with the exception of Rathdowne Street which is all within the NRZ and Nicholson Street which is partly within the NRZ)
- the provisions of the C1Z and MUZ allow for a greater range of land uses than in the NRZ
- the NRZ imposes mandatory height provisions on residential land use that does not apply to non-residential land uses, noting that commercial land uses within the NRZ are not subject to the mandatory height limit
- the C1Z and MUZ do not contain mandatory height provisions
- buildings within the LACs may be taller, and potentially of a different form depending on the proposed land use, than the surrounding NRZ land
- all of the LACs are designated 'minimal change' in the Housing Strategy (with the exception of the C1Z land in Nicholson Street which is designated 'incremental change')
- in a practical sense, the LACS are generally smaller in size, have smaller parcels of land, are affected by heritage overlays and have sensitive interfaces that will constrain growth both in terms of future use and the scale of development.

Council noted a planning permit will be required for most buildings and works within the LACs and not only will the zoning provisions, heritage provisions and ResCode provisions require a site specific, contextual response to the surrounding NRZ land, but provisions of the local policies will ensure development is respectful of the surrounding NRZ land. For instance, Clause 11.03-1L (Activity centres) states with regard to LACs:

Ensure any development respects the character of the centre.

Council submitted that unless specified in an overlay or zone (as is already occurring in many MACs and NACs as above), a mid-rise scale must be tailored to the site and its surrounds. This is recognised in Clause 02.03 (Strategic directions) which contains the following strategic direction:

Ensure mid-rise buildings are in accordance with any building height requirements set out in the relevant zone or overlay, or, where there are no building height requirements specified, having regard to the physical and strategic context of the site.

Council considered that “*a nuanced and contextual approach*” is required when considering the appropriateness of mid-rise development in any designated location. It referred to various policies contained within the Amendment to support this approach, as detailed below.

Council’s strategic directions in the MPS:

A key challenge in planning for growth is the need to accommodate new development in a built form that is sensitive to the context of the area which includes heritage significance, character and scale of the surrounding area. This needs to be balanced with opportunities to allow for new built form character in major regeneration areas such as - Alphington Paper Mill, the former Gasworks site in North Fitzroy and south-west Cremorne (south of Gough Street).

....

Conserve and enhance heritage buildings and streetscapes while still allowing appropriate development is a key driver in Yarra [sic].

Clause 11.03-1L (Activity centres):

Support development that improves the built form character of activity centres, whilst conserving heritage buildings, streetscapes and views to identified landmarks.

....

Support development that transitions to and is sensitive to the interfaces with low-rise residential neighbourhoods.

Clause 15.01-2L (Building design):

Ensure the height of new buildings respond to the height of adjoining development, unless indicated otherwise in the planning scheme.

Clause 15.01-1L (Urban design):

Provide a transition from any adjacent adjoining building with an individually significant or contributory heritage grading, having regard to height, street wall height, setbacks, building form and siting.

Provide a sympathetic and respectful design response that does not dominate an adjacent adjoining heritage place.

Clause 15.03-1L (Heritage):

Promote development that is high quality and respectful in its design response by:

- Maintaining the heritage character of the existing building or streetscape.
- Respecting the scale and massing of the existing heritage building or streetscape.
- Retaining the patterns and grain of streetscapes in heritage places.
- Not visually dominating the existing heritage building or streetscape.
- Not detracting from or competing with the significant elements of the existing heritage building or streetscape.
- Maintaining the prominence of significant and contributory elements of the heritage place.

Council noted the provisions of the State and regional policy (for example Clauses 15.01-1S (Urban design), 15.02-2S (Building design) and 15.03-1S (Heritage conservation)) will also require site contextual responses.

Ms Ancell supported Council’s approach and did not recommend any changes to the objectives or strategies in Clause 11.03-1L (Activity centres). Under cross-examination, Ms Ancell agreed that a DDO provides greater certainty regarding development outcomes for activity centres.

In response to submissions, Council agreed to make the following changes to Clause 11.03-1L (Activity centres):

- Brunswick Street MAC, insert an additional strategy that states:
Manage licensed premises and support the precinct's prominent night-time economy including the core entertainment precinct of bars and night-clubs between Alexandra Parade and Gertrude Street.⁴⁰
- Nicholson Street NAC, insert an additional strategy that states:
Support a mix of uses along Nicholson Street, in particular uses which provide the day to day needs of the local community.⁴¹
- St Georges Road NAC, insert an additional strategy that states:
Protect the historic significance of the precinct.⁴²

In response to the evidence of Mr Gard'ner, Council agreed to make the following changes to Clause 11.03-1L (Activity centres):

- for all LACs, amend the strategy that states:
Ensure any development respects the character and heritage significance of the centre.
- replace references to 'heritage buildings' with 'heritage places'.

Council suggested other minor changes including:

- changing references to mid-scale to mid-rise
- minor drafting changes to improve clarity and consistency.

(ii) Discussion

The Panel generally supports Council's approach to the proposed activity centre policy. It is appropriate that broad overarching directions are outlined in Clause 11.03-1L (Activity centres). It is not appropriate to include specific height controls (as discussed in Chapter 4) or detailed built form requirements in this local policy – these are matters for zones and overlays.

Council has outlined that the detailed built form controls for all of the MACs and most of the NACs are well underway (and for some centres, completed). The Panel acknowledges the significant resources and effort of Council to complete this work. It is clear to the Panel that Council is committed to implementing the DDO for many of the activity centres and this is to be commended. The ultimate completion of DDO schedules for these centres will play an important role in providing the 'flesh on the bones' of the MPS and the policies in the local policy framework. The DDO schedules should provide a level of comfort to the many parties who are seeking greater certainty about built form outcomes in activity centres. This is evident with the general support made during the Hearing for the recently finalised DDO schedule regarding Queens Parade.

The Panel has reviewed the proposed objectives and strategies in Clause 11.03-1L (Activity centres) in detail and accept that they are reasonable and appropriate. That said, the Panel was surprised that some centres had relatively few strategies and the format and level of detail was not always consistent between centres. These are relatively minor concerns, however more fulsome and comprehensive strategies for some centres may have helped to alleviate the concerns

⁴⁰ Submission 18

⁴¹ Submission 240

⁴² Submission 252

of some submitters. The Panel acknowledges the DDO already applies in some centres and this may have created a different context for the level of detail in the strategies.

The third strategy that applies to all activity centres states:

Support high quality mid-rise buildings in major and neighbourhood activity centres as identified in the relevant Design and Development Overlay.

The Panel understands this to mean that mid-rise development is supported in MACs and NACs where there is a DDO. The Panel supports this approach and considers the wording of the strategy should more clearly state:

Support high quality mid-rise buildings in major and neighbourhood activity centres where specified in a Design and Development Overlay.

The Panel considers the strategies in Clause 15.01-2L (Building design) should be modified to be consistent with the intent expressed in Clause 11.03-1L (Activity centres). The strategies in Clause 15.01-2L (Building design) should state that mid-rise development is supported in MACs and NACs where the DDO applies.

Mid-rise development is not specifically supported in LACs in any exhibited policy. The Panel considers this is an appropriate approach having regard to the level of anticipated growth in these lower order centres.

The Panel accepts the changes suggested by Council in response to submissions and evidence of Mr Gard'ner and other minor corrections and modifications to improve clarity and consistency.

(iii) Conclusion and recommendations

The Panel concludes:

- The proposed objectives and strategies in Clause 11.03-1L (Activity centres) are generally reasonable and appropriate.
- It is not appropriate to include specific or detailed built form requirements in Clause 11.03-1L (Activity centres) as these are matters for the zones and overlays.
- It is appropriate to ensure that mid-rise development in MACs and NACs is subject to the preparing a DDO schedule to enable a detailed and comprehensive suite of built form controls (including building heights) to respond to the character of the centre and the surrounding area.
- The third strategy in Clause 11.03-1L (Activity centres) that applies to all activity centres should be modified to make it clear that mid-rise development is supported in MACs and NACs with a DDO.
- The strategies in Clause 15.01-2L (Building design) should be modified to state that mid-rise development is supported in MACs and NACs with a DDO.
- All of the MACs and the majority of NACs have proposed, interim or permanent DDO schedules that deal with built form controls for these centres.
- The changes suggested by Council to improve clarity and consistency are appropriate.

The Panel recommends:

- 3. Amend Clause 11.03-1L (Activity centres) in accordance with the Panel preferred version in Appendix E.**
- 4. Amend Clause 15.01-2L (Building design) to:**

- a) revise the first dot point in the second strategy in under the heading 'Building heights' to state:
- *“Major and neighbourhood activity centres (as shown on the Strategic Framework Plan in Clause 02.04-1 and Clause 11.03-1L) where a Design and Development Overlay applies.*
 - *...”*
- b) revise the first strategy under the heading 'Mid-rise development' to state:
- “Direct mid-rise development to the following locations:*
- *Appropriate locations within major and neighbourhood activity centres where a Design and Development Overlay applies, major employment precincts, commercial and industrial land (as defined in Clauses 02.01 and 11.03-1L).*
 - *...”*.

6 Housing

6.1 What is proposed?

The Amendment proposes to introduce three new policies on housing into the PPF:

- Clause 16.01-2L (Location of residential development)
- Clause 16.01-3L (Housing diversity)
- Clause 16.01-4L (Housing affordability).

Proposed Clause 16.01-2L (Location of residential development) includes a new residential growth framework for Yarra. The framework is based on four housing change area designations generally in accordance with the change areas described in PPN90, with the substantial change area designation split into two categories; moderate and high. The change areas are summarised as:

- minimal change – residential areas with limited capacity to accommodate growth
- incremental change – residential, mixed use and commercial areas with capacity to accommodate a more modest level of growth
- moderate change – mixed use and commercial areas with capacity to accommodate moderate housing growth
- high change – mixed use and commercial areas and sites with capacity to accommodate substantial growth.

These housing change designations have been applied to all residential land and activity centres in Yarra.

Proposed Clause 16.01-3L (Housing diversity) proposes new strategies to support a more diverse offering of housing type.

Proposed Clause 16.01-4L (Housing affordability) supports the provision of affordable housing and proposes to introduce guidelines to consider:

- a minimum of ten percent affordable housing for rezoning to residential use
- a minimum of ten percent affordable housing for major residential developments of 50 dwellings or more.

The Housing Strategy and Affordable Housing Strategy are proposed to be included in the new Schedule to Clause 72.08 (Background documents).

6.2 Background and relevant documents

The Planning Scheme Review identified some concerns relevant to residential growth in the City of Yarra, including:

- lack of evidence-based narrative establishing how Council intends to accommodate population and employment growth;
- need for more effective mapping to address housing, open space and built form across Yarra, rather than by the neighbourhood; and
- need for ongoing systematic data collection to support evidence-based spatial planning.⁴³

⁴³ Document 84, Council Part A Submission, p10

Council prepared the Housing Strategy and Affordable Housing Strategy which primarily inform the proposed new housing policies.

The Housing Strategy was developed with reference to PPN90 and Plan Melbourne. It sets out a 15 year residential growth framework for Yarra which requires:

- monitoring population growth and evolving development trends
- directing housing growth to appropriate locations
- planning for more housing choice to support Yarra's diverse community
- facilitating the provision of more affordable housing in Yarra.

PPN90 provides guidance about how to plan for housing growth and protect neighbourhood character. It references State housing and settlement policies that need to be considered, summarised as relevant:

- consistency with Plan Melbourne
- compact urban areas that are based around existing or planned activity centres
- accommodating projected population growth over at least a 15 year period
- development that contributes to existing or preferred character
- facilitating increased housing in existing urban areas in appropriate locations with appropriate diversity in housing stock
- encouraging higher density development on sites that are well located in relation to services, jobs and public transport.

PPN90 establishes a residential development framework based on three housing change area typologies; minimal, incremental and substantial change.

Housing related policies in Plan Melbourne include:

- facilitate an increased percentage of new housing in established areas to create a city of 20 minute neighbourhoods close to existing services, jobs and public transport
- support new housing in activity centres and other places that offer good access to jobs, services and public transport
- recognise the value of heritage when managing growth and change
- create mixed use neighbourhoods at varying densities
- support a network of vibrant NACs.

Proposed Clause 16.01-2L (Location of residential development) is informed by the SEES. The SEES considers housing growth in the context of ensuring it is managed to limit unplanned conversion of employment land for residential purposes, and/or speculative trading which it states can undermine the viability of employment precincts.

Strategy 3 in the SEES is to *"Identify preferred locations for housing growth"* and identifies the Housing Strategy as the appropriate document to guide preferred locations and to support retaining Yarra's larger consolidated employment precincts. The SEES assumes that these locations will demonstrate sufficient capacity and therefore there will be no need to rezone employment land to provide for additional housing supply.

The Affordable Housing Strategy seeks to facilitate the long term supply of both social housing and affordable housing, which is considered to be housing within reach of households with moderate or low incomes (as defined by State legislation). It includes Strategic Direction 1 to *"Be a leading local government in realising affordable housing outcomes at new developments across Yarra"*. A number of measures are included under this Direction to facilitate the supply of social and

affordable housing through the planning system including seeking a 10 per cent provision of affordable housing as part of rezoning proposals or development proposals that allow for more than 50 dwellings.

6.3 Location of Residential Development

(i) The issues

The issues are whether the proposed framework for residential growth and application of housing change areas is appropriate with regard to:

- future demand for housing and estimates of capacity
- neighbourhood character
- directing growth to activity centres.

(ii) Evidence and submissions

Housing capacity

Submissions about housing capacity estimates and analysis raised three main issues:

- the impact of the COVID-19 pandemic on population growth and therefore future demand for housing
- accuracy of the estimates of housing capacity taking into account current and potential supply
- the extent of housing supply provided for by the Amendment demonstrates excessive capacity which suggests activity centres are not required to meet future housing needs.

Council requested the Panel to consider in particular the impact of slower population growth on housing projections for Yarra.⁴⁴

Issues relating to the impacts of the COVID-19 pandemic on population forecasts and housing demand have been discussed in Chapter 3 above and will not be repeated here.

Mr Szafraniec based his analysis on an assessment of capacity within Yarra's 12 largest activity centres⁴⁵ and by reviewing potential supply within other smaller centres and established residential areas. Mr Szafraniec considered the largest 12 activity centres could supply between 26,220 and 32,780 additional dwellings and that locations outside these centres could further accommodate a modest level of housing development without explicitly estimating an amount.

Mr Szafraniec provided an overview of potential housing supply based on 2019 Urban Development Program Major Redevelopment Site data, which identified developments greater than 10 dwellings constructed since 2016, that are under construction, that have planning permits or are under active consideration by Council. This included potential supply both within and outside the activity centres. Mr Szafraniec calculated a potential supply of 12,453 dwellings or 62 per cent of housing demand requirements to 2036. He noted that many of these developments would likely be on hold due to the impacts of the COVID-19 pandemic.

⁴⁴ Council Meeting Minutes, 3 August 2021, p17

⁴⁵ Using capacity estimates prepared by Andrew Spencer, also of SGS Economics, for Amendment C191 (Swan Street) and allowing for potential impacts of COVID-19 and a possible preference shift towards larger dwellings, Document 89, Expert Witness Statement J Szafraniec, page 12

Mr Szafraniec concluded that based on a forecast demand for new dwellings of 20,661 (between 2016 and 2036), the Amendment would:

- provide sufficient housing capacity across a range of locations out to 2036, taking into account uncertainties from the COVID-19 pandemic
- *“enable most of the housing growth to be targeted in to Major and Neighbourhood Activity Centres, while still allowing some development and change outside these areas”*.⁴⁶

He stated that this will reduce pressure for growth in minimal and incremental housing change areas.

Ms Saldanha raised questions at the Hearing about Mr Szafraniec’s analysis of housing capacity, suggesting that dwellings either completed or in development (2019 Urban Development Program) represented 93 per cent of dwelling demand for 2016-36 as projected by VIF16, rather than 60 per cent as tabled by Mr Szafraniec⁴⁷.

Mr Szafraniec responded to Ms Saldanha by stating that he believed she had misinterpreted the data and that his original calculations were correct. Mr Szafraniec provided a further breakdown of his data showing estimated housing supply represented approximately 60 per cent of dwelling demand for the period 2016-36.⁴⁸

Other submissions asserted that there was no need to designate all activity centres for housing growth given the capacity analysis showed that supply was much greater than forecast demand. Ms Saldanha also questioned the ‘blunt’ nature of the capacity analysis and submitted that it considered only quantity rather than the quality of the potential supply.⁴⁹

Mr Szafraniec considered that a surplus capacity within the activity centres was appropriate:

- to support housing growth beyond 2036
- given the uncertainty around the actual realisation of housing supply across all locations
- to enable better development outcomes *“as developers are not required to maximise yields on every single site”*.⁵⁰

Recognising ample estimated supply, Mr Szafraniec said adjustments to housing change area designations of specific sites or individual parcels would not significantly impact Yarra’s overall housing supply and demand composition and would be immaterial in terms of their overall economic outcomes.⁵¹

Council submitted that *“reworked calculations of Mr Szafraniec’s housing capacity analysis or reinterpretations of the figures in the Housing Strategy to suggest that activity centres are not required to meeting future housing needs are misconceived”*⁵². Council stood by its policy position that directing housing growth to Yarra’s activity centres was appropriate and consistent with State policy set out in Plan Melbourne and Clause 11 (Settlement) of the Planning Scheme. Council highlighted that the Housing Strategy identified Mixed Use Zone precincts and key development

⁴⁶ Document 89, Expert Witness Statement J Szafraniec, page 6

⁴⁷ Document 166, Panel Submission – T Saldanha, page 9

⁴⁸ Document 242 – Council’s Part C Submission, Attachment D

⁴⁹ Document 166, Panel Submission – T Saldanha, page 17

⁵⁰ Document 89, Expert Witness Statement J Szafraniec, page 22

⁵¹ Document 89, Expert Witness Statement J Szafraniec, page 34

⁵² Document 242 – Council’s Part C submission, page 15

sites in addition to activity centres as the most appropriate locations for directing future housing growth.

Neighbourhood character

The YPC and other submitters considered the proposed residential growth framework:

- had not been prepared with the input of a Neighbourhood Character Study
- included undefined terms (such as incremental change) that may lead to development that has a negative impact on neighbourhood character, particularly in activity centres
- needed stronger guidance as to how the neighbourhood character of various activity centres and other precincts would be protected when assessing new development.⁵³

The YPC questioned how the residential growth framework would implement the vision in Clause 02.02 for high quality urban design which respects heritage and built form character *“if the built form character of the various neighbourhoods has not been properly documented”*⁵⁴.

PFN elaborated that while there are many references to neighbourhood character in the Amendment there are few definitions of this character for activity centres, with some centres having none at all and nothing for land that falls outside activity centres.⁵⁵

PFN referred to PPN90 and its references to neighbourhood character strategies as an input to residential development frameworks. He suggested Council relied too heavily on heritage as the primary feature of neighbourhood character across Yarra and emphasised the differences between the two as set out in PPN43 which relates to understanding neighbourhood character.

Mr Lehmann (Submission 290) highlighted other elements of neighbourhood character critical to Fitzroy beyond traditional heritage streetscapes.

QPHPTG (Submission 377) submitted there was a need for a whole of Yarra neighbourhood character study. It suggested all activity centres covered by the Heritage Overlay but without a DDO should be identified through Clause 16.01.2L (Location of residential development) as areas of minimal change until DDOs are in place.⁵⁶

Council disagreed with submissions that a neighbourhood character study is required as part of the Amendment, or that one should inform part of future work, and submitted:

... the proposed MPS has had regard to neighbourhood character and has been informed by Clause 21.08 which contains a descriptive account of the character of the areas. Its heritage character is recognised through the Heritage Overlay (which covers 70% of the municipality) and associated heritage reviews and statements of significance, and the built form character of its activity centres has been analysed through the extensive built form work and heritage studies that support the permanent DDOs and the interim DDOs.

And:

... the provisions of the Scheme such as the NRZ and GRZ and the overlay controls, such as the DDOs, ESOs and site specific provisions identify an existing or a preferred future character.

⁵³ Submissions 79 (Peirce), 146 (Coffey), 292 (Noonan), 311 (Coveny), 316 (Lockhart)

⁵⁴ Document 191, Hearing submission, part 2, Yarra Planning Coalition, page 4

⁵⁵ Document 153, Hearing submission, Protect Fitzroy North Inc, page 13

⁵⁶ Document 207, Hearing submission, Queens Parade Heritage Planning & Traders Group, page 8

Whilst these provisions may often apply a general character to an area, it is submitted it is not necessary to identify each and every building and feature in Yarra before strategic planning policy is adopted, particularly when that character has been very well identified in the Scheme for many years.⁵⁷

Council did not agree that all heritage areas not subject to a DDO should be nominated as minimal change areas and submitted that the Housing Strategy directs growth where it can be best accommodated to varying degrees and should form the basis of change area designation.⁵⁸

Council commented on the introduction of the new residential zones and submitted that these zones allowed Council to protect neighbourhood character by directing housing growth to areas around main roads, shopping centres and transport hubs.

In response to a question from CHS as to what is meant by smaller scale apartment development in incremental change areas, Council submitted that it would depend on the physical context and zoning provisions of the GRZ, and given most incremental change areas are also affected by a Heritage Overlay a response to the heritage context would also be required.

Council accepted that the approved seven-storey development for the Piedimontes supermarket in an incremental change area was not a smaller scale development but emphasised the Tribunal decision preceded consideration of the Housing Strategy and factored in other existing policy guidance.⁵⁹

Ms Ancell opined that the proposed housing framework met guidance provided by PPN90, and more specifically that neighbourhood character was addressed by Strategic Direction 2 (Direct housing to appropriate locations) and by reference to heritage considerations within the Housing Strategy.

Mr McCallum disagreed and submitted Strategic Direction 2 does not provide sufficient guidance on neighbourhood character, and referring to heritage considerations is also insufficient. He presented examples of character sitting outside heritage:

- the legendary artistic and bohemian flavour of Brunswick Street
- the strong Vietnamese cultural influence of Victoria Street
- the Latin American quarter of Johnston Street.⁶⁰

Council responded that the provisions of the NRZ, Heritage Overlay and DDO schedules would identify and protect important components of neighbourhood character, alongside particular provisions of the Planning Scheme including Clauses 55 (Two or more dwellings on a lot and residential buildings) and 58 (Apartment developments).

UEM Sunrise raised concerns about applying the moderate change housing designation to their site partly on the basis of it being within a defined boulevard, but with an undefined boulevard character.

UEM Sunrise submitted that an additional strategy should be included for all change areas at proposed Clause 16.01-2L (Location of residential development) to recognise that there may be sites within a particular change area, that for contextual reasons, warrant a different approach than is suggested by policy for that change area:

⁵⁷ Document 243, Council Part C submission, p13

⁵⁸ Document 243, Council Part C submission, page 30

⁵⁹ Document 243, Council Part C submission, p24

⁶⁰ Document 153, Hearing submission, Protect Fitzroy North Inc, pp 15-16

The scale and form of residential growth may differ across a change area and development proposals will need to appropriately respond to their context and the capacity of an individual site to accommodate housing growth to a lesser or greater extent.⁶¹

Submission 266 expressed an alternative view and submitted that the Amendment placed an undue emphasis on the need for Yarra's housing policy to facilitate neighbourhood character outcomes rather than housing and affordability outcomes. He submitted that *"the language used in the amendment frames multi-unit development as a challenge to character that needs to be managed rather than a housing outcome that needs to be facilitated."*⁶²

In relation to drafting, Ms Ancell suggested the strategy bullet point *"That respects character of the street"* in Clause 16.01-2L (Location of residential development) should be deleted as this repeats Clause 15.01-5S.

Activity centres and housing growth

With reference to the Housing Strategy, Council summarised its overarching position on the location of residential growth in Yarra:

The current and proposed residential land in Yarra's activity centres, mixed use zone precincts and key development sites are the most appropriate locations for directing future housing growth. They are well serviced by public transport, community services, provide access to jobs, shops and entertainment for residents and can accommodate substantial growth with the least impact. The level of housing growth in these areas will vary depending on a site's context and suitability to accommodate housing growth.

Directions for guiding future residential growth in these areas will be informed by the detailed heritage reviews and built form frameworks being undertaken for Yarra's activity centres and will provide guidance on the levels of growth appropriate in each precinct.⁶³

Many submitters took issue with the proposal to direct residential growth to activity centres, including The 3068 Group which considered the 'activity centre model' a poor fit for Yarra and instead submitted that residential growth should be targeted to SRSs and former industrial sites.

Council responded that the Housing Strategy pivots away from directing housing growth to SRS and that just under 70 per cent of SRS had been fully developed or were under active consideration by Council in 2018. Council explained that most of the larger sites were designated high change areas, with the remaining either moderate or incremental.⁶⁴

Council submitted that proposed Clause 16.01.2L (Location of residential development) directs that high and moderate change areas will be the focus for higher densities of development while housing growth will be more limited in minimal and incremental change areas.

Council clarified in relation to activity centres and nomination of change areas⁶⁵:

- all MACs have a range of housing change areas
- three NACs contain a variation in housing change nominations across the extent of the activity centre including minimal change, incremental change and land designated for

⁶¹ Document 223, Hearing submission, UEM Sunrise (Collingwood Development) Pty Ltd, page 35

⁶² Submission 266 (Travers)

⁶³ Document 243, Council Part C submission, p13

⁶⁴ Document 125, Council Supplementary Part B submission, page 5

⁶⁵ Document 243, Council Part C submission, p16

greater change, namely Heidelberg Road NAC, Johnson Street NAC and Queens Parade NAC

- two NACs are primarily located within an incremental change area with small abutting areas of minimal change namely, Nicholson Street NAC and St Georges Road NAC
- save for areas of identified as open space, two of the NACs are located within an incremental change area namely Gertrude Street NAC and Rathdowne Street NAC
- all LACs are designated for minimal change with the exception of Nicholson Street LAC which is an incremental change area.

The future intention is to continue to focus growth in activity centres of varying size, function and scale and Council submitted that the MPS sets out a hierarchy of activity centres that clearly identifies LACs as having a lesser role than MACs or NACs.⁶⁶

Other submissions were concerned that directing housing growth to activity centres could interfere with the economic and cultural role of the centres, in addition to having a negative impact on neighbourhood character.

Council submitted:

Additional housing in and near activity centres increases retail expenditure and can act as a catalyst for new economic activity. It also provides opportunities for people to live in locations with good access public and active transport infrastructure.⁶⁷

Mr Szafraniec endorsed this position at the Hearing and said that from an economic perspective growth is beneficial around activity centres to activate them across a range of uses and times of day, to create a vibrant night economy, bring employees to an area and that additional residents enable businesses to cater to different markets and thrive over time.

Ms Ancell considered the Amendment balances the residential, commercial and cultural roles of activity centres primarily based on the tiered approach to both activity centres and housing change categories which directs housing growth to centres where it can be best accommodated.⁶⁸

Some submissions supported increased development along activity corridors, and submitted that this approach would create more sustainable and walkable neighbourhoods with better amenity and fewer cars. Submission 366 stated:

As a young person who lives in a one-bedroom apartment in the Smith Street activity centre I believe that increased residential densities within our activity centres and adjacent to public transport is an appropriate strategic response to population growth and housing affordability challenges.⁶⁹

(iii) Discussion

Housing capacity

The Panel accepts Mr Szafraniec's evidence that the Amendment provides sufficient housing capacity across a range of locations to support housing demand requirements to 2036. This is based on accepting the forecasts of population growth and housing demand (discussed at Chapter 3 above) and the analysis of potential supply that includes:

⁶⁶ Document 243, Council Part C submission, p48

⁶⁷ Document 68, SEES, 2018, p30

⁶⁸ Document 85, Expert Witness Statement S Ancell, page 43

⁶⁹ Submission 366. B Travers

- the 12 largest activity centres
- infill opportunities across existing residential areas
- calculations of recent and likely dwelling supply measured through the 2019 Urban Development Program.

Council and Mr Szafraniec did not provide an overall estimate of potential supply that captured all of the above opportunities together. The Panel recognises the total potential supply of housing across Yarra will be greater than the 26,220 to 32,780 dwelling capacity estimated for the activity centres. This is particularly so given that two of the major redevelopment sites are excluded from these figures as they are outside activity centre boundaries (Cremorne and the former Channel 9 site).

Submissions suggested this excess capacity should alleviate the need to designate all NACs and/or LACs for housing growth. This proposition is more difficult to assess.

The Panel agrees with Mr Szafraniec that surplus capacity is appropriate to provide some certainty for the longer term and in not being possible to predict the timing of developments being realised “on the ground”. However, the Panel is not convinced by his assertion that excess supply would result in better development outcomes because developers are not pressured to maximise supply on an individual site. While this may occur, it is not guaranteed, and appropriate development outcomes will be shaped by contextual design and the built form development controls applied to a site.

No evidence was presented to support a position that the Amendment provides for an overly excessive supply which would warrant a change in housing area designation. The Amendment provides for ample capacity to accommodate forecast demand and that this is generally appropriate.

However, the Panel is cognisant of Mr Szafraniec’s opinion that adjustments to housing change area designations of specific sites or individual parcels would not significantly impact Yarra’s overall capacity for housing growth given the substantial potential supply. Site specific requests for amendments to housing change designations are considered in more detail in the following Chapter.

The Panel accepts Mr Szafraniec’s evidence that the growth projections underpinning the Housing Strategy are sound, accepting that indications are for slower growth in the short term with recovery to near earlier projections in the medium to longer term. The Panel does not anticipate a problem with housing capacity if growth is slower than anticipated, understanding there may be less development pressure across the municipality.

Neighbourhood character

PPN90 provides guidance about how to plan for housing growth and protect neighbourhood character to ensure a balanced approach to managing residential development. It does not require a municipality to undertake a neighbourhood character study to implement a new housing framework. It acknowledges a neighbourhood character study assists in identifying valued characteristics and the preferred future character for residential areas:

... a neighbourhood character strategy should feed into a residential development framework that identifies minimal, incremental and substantial change areas to

balance the need to protect valued character with the need to ensure housing growth and diversity.⁷⁰

The Panel has considered the two roles for a neighbourhood character study in developing a residential growth framework and whether Council, in the absence of a specific study, has adequately taken neighbourhood character into account by:

1. identifying neighbourhood characteristics to inform the application of housing change areas
2. ensuring sufficient local policy is provided in the Amendment to enable consideration of existing or preferred neighbourhood character (as relevant to the change area) for future development applications.

It is generally expected that PPN90 should be read with PPN91. It assumes the residential zones are being applied at the same time as the residential growth framework, and that zones are applied based on the housing change area designations determined for a site or precinct.

For Yarra, this is not the case. The new residential zones in Yarra were implemented through Amendment C175, and approved by the Minister for Planning in 2015 who noted as part of the approval:⁷¹

The new zoning tools enable planning authorities to better specify strategic locations where increased densities should be provided and to limit residential change in areas where they wish to protect neighbourhood character, environmental and other characteristics.

In large part, application of the new residential zones has already set the level of housing growth that can occur in Yarra's residential areas. The Housing Strategy identified that over 50 per cent (420 hectares) of land is included within the NRZ and a further 25 per cent (186 hectares) is included within the GRZ.⁷² The Panel accepts the approach in the Housing Strategy to generally apply the minimal and incremental change areas in recognition of the capacity constraints placed on the land by built form controls in the zones and zone schedules (generally limiting building heights between 9-11 metres in addition to other controls).

The Panel notes this is consistent with the advice in PPN91 on aligning the housing change areas and residential zones, and as shown in Table 7.⁷³

Table 7 **Aligning the housing change areas and residential zones**

Zone	Minimal	Incremental	Substantial
Neighbourhood Residential Zone	✓	✓	
General Residential Zone		✓	✓
Mixed Use Zone		✓	✓

The Panel accepts that existing neighbourhood character has informed the application of the zones. It agrees with Council that in these residential areas, neighbourhood character will be required to inform future development applications through zone and zone schedule controls,

⁷⁰ PPN90, page 7

⁷¹ Reasons for Decision to Exercise Power of Intervention – Yarra C176, Minister for Planning, 19 April 2015

⁷² Document 66, Housing Strategy, page 52

⁷³ PPN91, page 5

alongside the Heritage Overlay (applicable to approximately 70 per cent of land across Yarra), other applicable overlays and the requirements of Clauses 54 and 55.

Of the remaining 25 per cent of land in Yarra, less than 10 percent is in the MUZ and the remaining land in non-residential zones.

Council has generally applied the moderate or high change categories to mixed use or commercial land (although not always) and notes the Housing Strategy sets out the follow criteria (summarised) as determinants of housing change area application:

- current and proposed zone and overlay requirements
- context – access to services, transport employment
- land attributes – sensitive interfaces, lot zones, development activity, emerging character
- strategic planning work – existing and proposed structure plans, built form frameworks
- capacity
- community feedback.⁷⁴

Some of these criteria may capture neighbourhood character (such as through structure plan and built form frameworks, zones and overlays that identify elements of character (eg heritage, landscape, culture) but the Housing Strategy does not provide details of the analysis that occurred with regard to various precincts or individual sites.

Each housing change area includes a description in the Housing Strategy of the characteristics generally displayed within that change area. The Panel considers these somewhat generic but largely consistent with the guidance in PPN90, and that these do provide some insight as to the characteristics that led to a particular designation.

The Panel notes that some sites may have characteristics of more than one category and considers that this is where it may have been useful to have a neighbourhood character study or other analysis to enable a clearer understanding of why a site may have been allocated a particular category. Notwithstanding, the Panel finds that the characteristics that have informed the application of housing change areas are clear and a neighbourhood character study is not required to justify the application.

For future development applications, the Panel agrees with submissions that there are many references to respecting neighbourhood or streetscape character in the proposed PPF but less detail about the specific elements of character that are to be respected. The Panel can understand why this may appear as a gap to submitters, in contrast with the existing more detailed and descriptive Clause 21.08 (Neighbourhoods).

The Panel turned its mind to whether the character statements for the housing change areas have sufficient context to enable assessment as part of a development application in the absence of a neighbourhood character study.

The Panel is cognisant of the purpose of proposed Clause 16.01-2L (Location of residential development) and its role to guide housing growth and not specific built form outcomes such as building height. That being said, directing growth to certain areas and away from others will have built form implications. This is quite evident from the illustrations that accompany each housing change area description.

⁷⁴ Document 66, Housing Strategy, page 68

Proposed Clause 16.01-2L (Location of residential development) includes strategies for managing character depending on the housing change category:

- High Change – establish a new character for the site or precinct
- Moderate Change – respond to heritage significance and streetscape character
- Incremental Change – respect the character of the street
- Minimal Change – respect the prevailing type, scale and character of development in the street.

It is fair to say that the most significant change will occur in the high and moderate change areas within activity centres and in the two major regeneration areas (both designated for high change) because an objective of proposed Clause 16.01-2L (Location of residential development) is to direct the majority of growth to these locations.

The Panel supports the character statement for high change areas which seeks to establish a new character and considers this to be consistent with the guidance of PPN90 in relation to substantial change areas.

The moderate change area is part of Council's more nuanced approach to housing change categories and is considered a subset of the substantial change category. The strategy provides support for medium density residential and mixed use development in the form of apartment buildings that respond to heritage significance and streetscape character.

The Amendment captures the heritage component of neighbourhood character well through the MPS, proposed local policies and application of the Heritage Overlay. The Panel is comfortable that neighbourhood character is sufficiently addressed in areas where a DDO has been applied. The Panel acknowledges that all activity centres which have been designated for moderate change already have a permanent or interim DDO. In these situations, the character strategy for moderate change housing areas will have a contextual application and that a preferred neighbourhood character outcome will be evident.

The Panel acknowledges there will be sites that fall outside activity centres that are within a moderate change housing area, such as the UEM site. In these instances, the character statement is drafted so that it will not constrain development potential on a site where there is no heritage significance or defined streetscape or boulevard character and therefore no need to include a further strategy about the specific capacity of individual sites. The scale and form of growth will differ across changes areas based on site context and potential capacity.

Turning to the lesser housing change areas, the minimal change area provides clear direction that will ensure protection of neighbourhood character. The requirement to respect the prevailing character of development in the street will capture all character elements, including heritage (Panel's emphasis).

Ms Ancell recommended removing the character statement from the incremental change area category considering it a duplication of State policy. The Panel agrees with Council that it would not be appropriate to remove the character statement from one of the change areas in isolation as this could be interpreted in an unintended manner and suggest that character is not relevant in that particular housing change area.

Council anticipates a somewhat greater level of housing growth in incremental change areas (compared to minimal change areas). Proposed Clause 16.01-2L (Location of residential development) creates a further differentiation between the level of change proposed for land

within and outside activity centres notwithstanding the same housing change designation may be applied. This assumption is predicated on the two additional strategies that have been applied to the lesser change areas that seek to:

- Limit housing growth in minimal change areas and incremental change areas outside activity centres to ensure development responds to the small lot sizes, neighbourhood character and identified heritage significance.
- Support mixed use development in incremental change areas within activity centres to maintain the role and function of the centres as locations for economic activity.

It is clear that the majority of housing growth is to be directed to activity centres and major regeneration sites. The Housing Strategy, while establishing a four-tiered housing change framework, recognises the level of change will differ across a housing change area and development proposals will need to appropriately respond to their context and the capacity of an individual site to accommodate housing growth.⁷⁵ Thus it is reasonable to expect that a higher level of growth might be anticipated in an activity centre.

This is separate from whether a development should respect the existing or preferred character of an area, respond to its context and reinforce a sense of place.

As currently drafted, it appears that within activity centres, housing development should respect the character of the street, but outside activity centres housing development should also respond to small lot sizes, neighbourhood character and identified heritage significance. This is confusing. Where character attributes are valued in a neighbourhood or streetscape (whether heritage or other characteristics), they should be given consideration and this should not depend on whether land is within an activity centre or not.

This concern is elevated in incremental change areas that are within activity centres and are not currently covered by a DDO. The Panel gave much thought to the submissions requesting that any activity centre not covered by a DDO be designated as a minimal housing change area until such time as a DDO is applied. The Amendment captures the heritage component of neighbourhood character well, however the Panel was presented with little evidence that other valued aspects of neighbourhood character had been captured. It is recommended that Council undertake further activity centre planning for those centres not covered by a DDO to ensure valued character is protected as incremental change occurs.

The Panel considers the following changes to Clause 16.01-2L (Location of residential development) would strengthen consideration of neighbourhood character attributes in activity centres in incremental change areas and avoid confusion:

- amend the second dot point strategy under incremental change:

Provide for incremental change in incremental change areas by encouraging development:

- Of single or town house type dwellings on individual lots or smaller scale apartment development.
- That respects the fine-grain subdivision pattern, neighbourhood or streetscape character and identified heritage significance.
-

⁷⁵ Document 66, Housing Strategy, p69

- delete the character reference in the strategy that further limits housing growth outside activity centres:

Limit housing growth in minimal change areas and incremental change areas outside activity centres. to ensure development responds to the small lot sizes, neighbourhood character and identified heritage significance.

The Panel does not agree with submitters that there has been undue emphasis on the need for Yarra's housing policy to facilitate neighbourhood character outcomes rather than housing and affordability outcomes, but rather the Amendment has appropriately considered all of these matters in accordance with PPN90. Proposed Clause 16.01-2L (Location of residential development) clearly sets out a tiered system of housing change to support development in appropriate locations that adequately responds to forecast demand. Diversity and affordability are further considered and provided for in proposed Clauses 16.01-3L (Housing diversity) and 16.01-4L (Housing affordability).

Activity centres and housing growth

At the 3 August 2021 meeting, Council resolved to request the Panel to consider in particular the following issue in relation to housing:

- balancing tensions of introducing residential growth in and around activity centres versus the primary commercial and cultural role of those activity centres⁷⁶

Housing growth in activity centres is encouraged through State policy, Plan Melbourne and PPN90. It is therefore entirely appropriate for Council to support residential development in appropriate locations in activity centres.

PPN58 defines activity centres as:

...a focus for housing, commercial, retailing, community, employment, transport, leisure, open space, entertainment and other services and are places where people shop, work, meet, relax and live.

It is important to understand this wide reaching role for activity centres which seeks to create social, economic and cultural benefits by bringing together a number of potentially allied uses, adding a layer to the more siloed approach of zone application.

The Panel accepts Council's submission and Mr Szafraniec's evidence that generally additional housing in and near activity centres increases retail expenditure and can act as a catalyst for new economic activity.

The Panel considers that activity centres assist in the creation of more sustainable and walkable neighbourhoods.

There is a hierarchy of activity centres across Yarra with differing roles to play.

The level of housing growth applied to different activity centres requires a contextual approach and that the application of the four housing changing areas by Council responds to this need and is consistent with the requirements of PPN90.

Strategies associated with the first objective in proposed Clause 16.01-2L (Location of residential development) relate only to high and moderate change areas and would therefore not apply to

⁷⁶ Council Meeting Minutes, 3 August 2021

any LACs or NACs that do not include these designations. It would be appropriate to provide greater clarification within the objective to make this clear as follows:

- To direct the majority of new housing development to high and moderate change locations within ~~an~~ a major or neighbourhood activity centre or major regeneration area (as shown on the Strategic Framework Plan in clause 02.04).

Consideration is given to whether the stated roles for the different activity centres as defined in the Activity Centres Report is consistent with the applied housing change designations. The roles are summarised as:

- the majority of housing growth will be accommodated in activity centres or mixed use areas adjoining the activity centres
- the MACs will see the most significant growth and major change particularly in those precincts less constrained by heritage or other design constraints
- some of the NACs have capacity to accommodate growth in identified precincts
- the activity centre network will play an important role by accommodating housing development relieving pressure for encroachment into other employment areas.

All LACs are designated for minimal housing change except for the Nicholson Street LAC which is proposed to be in an incremental change area. The Panel notes that no areas within the NACs have been identified for high or moderate change that have not been subject to a more detailed structure planning process with a permanent or interim DDO.

The proposed designations are consistent with the intended housing role for the activity centres, subject to the recommended wording changes as described in this Chapter. The Amendment adequately balances the tension between housing growth and the commercial and cultural role of activity centres.

(iv) Conclusions and recommendations

The Panel concludes:

- The residential growth framework is based on sound forecasts for housing demand that have considered the implications of the COVID-19 pandemic.
- The potential supply of housing is based on acceptable estimates of capacity.
- The Amendment allows for a potential supply of housing across a range of locations to support housing demand requirements to 2036.
- The four proposed housing change areas classifications are generally consistent with the guidance provided in PPN90 and take into account neighbourhood or precinct characteristics in assigning housing change areas to precincts.
- Proposed Clause 16.01-2L (Location of residential development) includes character strategies for each housing change area which will allow for adequate consideration of neighbourhood character in assessing development proposals (in addition to zone and overlay controls), with the exception of the incremental change area which is considered insufficient.
- It is not appropriate to remove the character strategy from the incremental change area.
- The wording of proposed Clause 16.01-2L (Location of residential development) should be strengthened to consider neighbourhood character in incremental change areas.
- There is a need to undertake further activity centre planning for those activity centres not covered by a DDO and where the incremental change category has been applied to ensure valued character is protected as modest growth occurs.

- Residential development should be supported in appropriate locations in activity centres in accordance with State policy.
- The proposed housing change area designations of the activity centres are generally consistent with the intended housing role for the activity centres, subject to the recommended changes outlined in this Chapter.
- The Amendment adequately balances the tension between housing growth and the commercial and cultural role of activity centres.

The Panel recommends:

5. Amend Clause 16.01-2L (Location of residential development) to:

a) revise the first objective to state:

- *To direct the majority of new housing development to high and moderate change locations within a major or neighbourhood activity centre or major regeneration area (as shown on the Strategic Framework Plan in Clause 02.04).*

b) revise the second dot point of the third strategy (incremental change areas) under the second objective to state:

- *That respects the fine-grain subdivision pattern, neighbourhood or streetscape character and identified heritage significance.*

c) revise the fourth strategy under the second objective to state:

- *Limit housing growth in minimal change areas and incremental change areas outside activity centres.*

Further recommendation

The Panel informally recommends that Council undertake further activity centre planning through a separate process for activity centres not covered by a DDO and where the incremental change category has been applied to ensure neighbourhood character is protected.

6.4 Site Specific Requests

(i) The issue

The issue is whether housing change area designations are appropriate for a number of specific sites raised through submissions.

(ii) Rathdowne Street Neighbourhood Activity Centre (land between Fenwick and Princes Streets)

Evidence and submissions

Submissions	Council and expert response
Request: Redesignate from incremental change to minimal change (Submission 231, Document 202)	Council submitted the activity centre is within a NAC, comprising a mix of NRZ and C1Z zoned land.
Key points:	Council submitted it was appropriately designated as incremental change.
- apartment development would have a detrimental impact on heritage and built form character	Ms Ancell agreed that the area ought remain an incremental change area as it is within a NAC and
- North Carlton is the largest and most cohesive collection of small Victorian and Edwardian terrace	there are already shop-top dwellings constructed on top of single storey premises.

Submissions	Council and expert response
<p>and attached housing forms of any suburb in the State</p> <ul style="list-style-type: none"> - existing height controls across much of the centre constrain development potential - disputes the suggestion in the Activity Centres Report that Rathdowne Village could provide 150 dwellings due to small lots with narrow frontages constrained by rear laneways - proposal does not fit with all of the criteria for incremental change areas set out in PPN90 - strength of the centre lies in the character of the built form as stated in the current Planning Scheme - proposal is inconsistent with Council's Part B submission which states residential land encumbered by significant constraints (for example the HO) were generally excluded from activity centres - 30 per cent of the proposed centre is residential and the majority zoned NRZ1, the whole centre is covered by the HO – major constraints to development potential - limited strategic policy is included in the Amendment to guide future development - upon questioning at the Hearing, Mr Holdsworth and Mr Lewis gave evidence that minor change only was appropriate in this centre because of the existing built form character 	

Discussion and conclusion

As discussed in Chapter 5, the Rathdowne Street NAC has a unique character quite different to other NACs with respect to its scale, consistent fine grain and low-rise character, heritage significance, comparatively limited access to public transport and with a high portion of the centre zoned NRZ1. The activity role of this centre is evident with many of the properties zoned NRZ1 used for non-residential purposes, alongside the C1Z.

The Panel acknowledges that the highly intact built form character of the centre is a major (possibly the major) attribute and highly valued by the local community. The Rathdowne Street NAC has many characteristics common to both the incremental and minimal change areas.

The Panel observes that it is within a commercial area with highly intact heritage values, which would suggest that the incremental change category would be most appropriate (as the minimal change category is generally only applied to residential areas). However, given the constraints on potential development capacity (including the Heritage Overlay, height controls in the NRZ1 and small lot sizes) it is not expected that development in the NAC would “*gradually evolve over time*” as expected in incremental change areas and nor would this be desirable given that the existing built form character of the centre is what makes it unique.

Mr Szafraniec makes it clear that the potential dwelling capacity of the Rathdowne Street NAC is of the lowest order, offering a negligible contribution to potential supply.⁷⁷ The Panel recognises that while housing growth is generally directed to activity centres in line with State policy, Yarra has a well-considered hierarchy of activity centres that assigns the Rathdowne Street NAC to a lesser housing change category in recognition of its limited potential.

The Panel agrees with Ms Ancell that some shop-top dwellings have been constructed above single storey premises⁷⁸. However, the Panel does not agree that this is necessarily a reason to assign the incremental change category. This form of development is consistent with the prevailing type, scale and character of existing development and could continue within a minimal or incremental housing change area.

For reasons including its existing characteristics and limited capacity for growth, the Panel considers that the minimal change area category is more appropriate for the Rathdowne Street NAC. Further it would:

- align with the expectations for housing change areas as expressed in the Housing Strategy
- have no significant impact on housing capacity for Yarra
- would not diminish the activity centre role of the NAC, noting that not all NACs have equivalent development potential.

The Panel concludes the minimal change category should be applied to the Rathdowne Street NAC.

(iii) Nicholson Street Activity Centre (west side)

Evidence and submissions

Submissions	Council and expert response
<p>Request: Redesignate the west side of the Nicholson Street NAC from incremental change to minimal change (Submissions 231 and 311, Documents 202 and 206)</p> <p>Key points:</p> <ul style="list-style-type: none"> - retail activity is almost entirely on the west side and the activity centre is significantly smaller than the area shown on the map - retail has suffered in this location due to tramway works and COVID-19. There are signs vitality is returning and this should be supported by lower property and rental values - it is part of the largely intact North Carlton heritage area (forming the eastern boundary of the precinct), covered by the HO and therefore inappropriate to encourage incremental change - opportunities exist on the east side to support 	<p>Council submitted the area is within a NAC and zoned C1Z. It exhibits fine grain subdivision patterns and small lot sizes, comprises a mix of detached, dual occupancy and smaller apartment style dwellings. Council submitted it is appropriately designated as incremental change.</p> <p>Mr Szafraniec considered its designation as a NAC to be appropriate in light of the role, function and economic performance of the centre. He also considered its designation as an incremental change area to be appropriate and consistent with the centre's role and level of access to transport, employment and services.</p> <p>Ms Ancell agreed the area ought remain an incremental change area as it is within a NAC and zoned C1Z.</p>

⁷⁷ Document 89, Expert Witness Statement J Szafraniec, Table 1, page 17

⁷⁸ Document 85, Expert Witness Statement S Ancell, page 39

Submissions**Council and expert response**

incremental change

- there is no need for residential development here
- the wording in the Amendment is weaker than existing policy and will not adequately protect the area

Discussion and conclusion

The Nicolson Street NAC demonstrates obvious characteristics of a more 'typical' NAC – including the scale of development, range of land uses and a tram line. The Panel accepts it is one of the smaller, lower order NACs and therefore its capacity to provide for housing growth will be more limited. The Panel observed some incremental change already occurring within the NAC throughout the precinct.

The Panel agrees with submissions that future development opportunities may be more likely on the east side than the west due to some larger allotments and the potential of the bus depot site. This is not necessarily a reason to differentiate between housing change area designations across the centre. With the exception of a fine grain subdivision pattern, the west side of the NAC does not exhibit the characteristics of a minimal change area. It is entirely zoned C1Z and is not predominantly made up of detached and dual occupancy dwellings. A fine grain subdivision pattern is also a stated characteristic of incremental change areas. It is clear the expectations for this NAC are for modest growth and the Panel accepts the incremental change category is appropriate to allow for some gradual housing growth across time. The Panel agrees with Mr Szafraniec that this designation is consistent with the centre's role and level of access to transport, employment and services.

The Panel supports that the incremental change category as applied to land in the Nicholson Street NAC on the west side of Nicholson Street.

(iv) 104-118 Queens Parade, Fitzroy North**Evidence and submissions****Submissions****Council and expert response**

Request: Redesignate from incremental change to minimal change (Submission 190)

Key points:

- the row of houses at 104-118 Queens Parade fit the definition of a minimal change area
- it is within an established residential area (NRZ1) with limited capacity to accommodate growth over time
- it has consistent fine grain subdivision pattern and small lot sizes
- it has detached and dual occupancy dwellings
- the house at 118 is the original bluestone farmhouse of the area and deserves the highest level of protection, 110-116 are a row of original

While these sites are within the NRZ, Council submitted they are appropriately designated as incremental change as they are located within a broader precinct that meets the following characteristics of an incremental change area:

- within an established residential area with GRZ land to its north-east comprising a mix of detached, dual occupancy and smaller scale apartment dwellings.

Council acknowledged this land has not been included in the DDO16 and is outside the mapped NAC in the Strategic Framework Plan.

Mr Szafraniec gave evidence that from an economic perspective the proposed housing framework designation was appropriate.

Submissions	Council and expert response
Victorian terraces, 106 and 108 have significant heritage features	However Ms Ancell agreed with the submitters that these sites should be redesignated and referred to other examples in Queens Parade within close proximity where a finer grained approach had been applied.

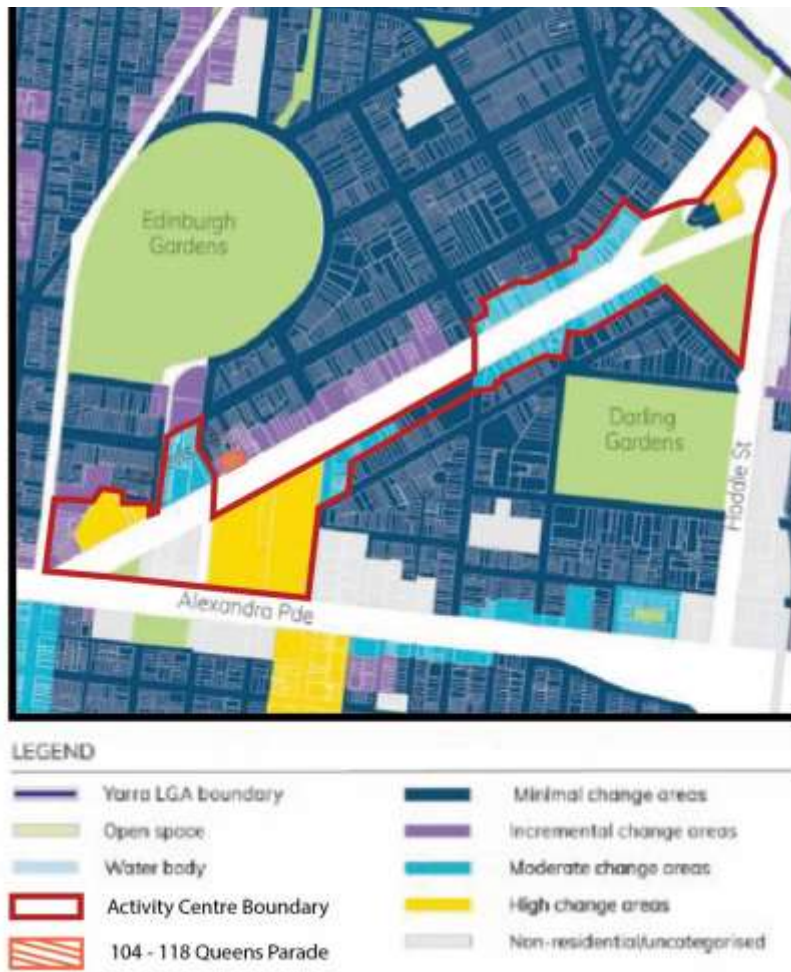
Discussion and conclusion

These properties, along with adjacent properties along Queens Parade to the north east, have been designated incremental change. The properties do not form part of the Queens Parade NAC (and neither do the adjacent properties to the north east). The incremental change area does not extend the entire length between the boundaries of the Queens Parade NAC, a small number of properties adjacent to the NAC boundary to the north east have been included in the minimal change designation as can be seen in Figure 2.

The Panel agrees with both Submission 190 and Ms Ancell that the properties at 104-118 Queens Parade, Fitzroy North exhibit all of the characteristics of a minimal change area. These properties have a noticeably finer grain subdivision pattern, smaller allotment size and consistent built form character than properties to the north east which have also been included in the incremental change designation. These properties are all in the NRZ1.

The Panel concludes the minimal change category should be applied to 104-118 Queens Parade, Fitzroy North.

Figure 2 Queens Parade – housing change area designations⁷⁹



⁷⁹ Document 112, Ms Ancell's slide presentation

(v) Queens Parade Neighbourhood Activity Centre**Evidence and submissions**

Submissions	Council and expert response
<p>Request: Redesignate from moderate change to incremental change (Submission 231)</p> <p>Key points:</p> <ul style="list-style-type: none"> - moderate change development in this location will destroy the retail function of this NAC and its heritage values <p>Request: Redesignate from moderate change to minimal change (Submissions 292 and 312)</p> <p>Key points:</p> <ul style="list-style-type: none"> - the moderate change designation is at odds with DDO16 (implement via C231) 	<p>Originally Council submitted that this area is appropriately designated as moderate change because it is within a NAC that has heritage significance and sensitive interfaces with excellent access to services, open space and public transport, and a mix of lot sizes.</p> <p>Council submitted through its Part C submission that the DDO16 had since identified Precinct 4 as a low rise area which better corresponds with the designation of incremental change, and there would be a basis for the Panel to recommend adjusting the designation in this location.</p> <p>Ms Ancell gave evidence that the area ought to remain a moderate change area. She noted the built form controls (DDO16) and opined that moderate change remained appropriate with development up to 14m in parts of the area.</p> <p>Mr Szafraniec gave evidence that from an economic perspective the proposed housing framework designation was appropriate for the NAC.</p>

Discussion and conclusion

The Panel acknowledges the role of proposed Clause 16.01-2L (Location of residential development) in guiding housing growth rather than specific built form outcomes. However, it is clear that where detailed built form controls have been applied to specific sites or precincts, this will impact on the level of residential development that is able to be accommodated.

In the case of the Queens Parade NAC, the Panel agrees with Council that identifying Precinct 4 as a low-rise area better corresponds with the designation of incremental change. And further that the objectives, strategies and requirements in the DDO16 (in addition to the mandatory height controls) have substantially restricted development opportunities in this location for substantial housing growth.

The Panel concludes the incremental change category should be applied to Precinct 4 of the Queens Parade NAC.

(vi) Ramsden Street, Clifton Hill (land along western side of street)**Evidence and submissions**

Submissions	Council and expert response
<p>Request: Redesignate from incremental change to minimal change (Submission 312, Document 161)</p> <p>Key points:</p> <ul style="list-style-type: none"> - clarification that specifically houses at 6-14 Ramsden Street should be classified as 	<p>Council submitted land along the western side of Ramsden Street demonstrates the following characteristics associated with incremental change areas:</p> <ul style="list-style-type: none"> - it is located within an established residential area - has a consistent fine-grain subdivision pattern and

Submissions	Council and expert response
<p>minimal change</p> <ul style="list-style-type: none"> - substantial Victorian era houses in a street of similar houses - their proximity to the Clifton Hill Station should not be used to compromise their place as the visual start of a heritage street 	<p>small lot sizes</p> <ul style="list-style-type: none"> - is not covered by a Heritage Overlay. <p>As such, Council submitted that this area is appropriately designated as incremental change.</p> <p>Ms Ancell agreed the area ought remain an incremental change area as it is within the GRZ, is not subject to a Heritage Overlay and is next to a train station <i>“so it is of particular importance to provide opportunities for some level of change to take advantage of its strategic location”</i>.</p>

Discussion and conclusion

The Panel recognises the heritage character of some of the properties at 6-14 Ramsden Street, Clifton Hill. However, there is also some modest incremental change occurring along this strip, noting the GRZ1 zoning, absence of the Heritage Overlay and proximity of the Clifton Hill Station.

For these reasons, the Panel agrees with Council and Ms Ancell that the properties should be designated incremental change.

The Panel supports the incremental change category as applied to 6-14 Ramsden Street, Clifton Hill.

(vii) 2-12 Garryowen Lane and 35 Rose Street, Fitzroy

Evidence and submissions

Submissions	Council and expert response
<p>Request: Redesignate from incremental change (Submission 315)</p> <p>Key points:</p> <ul style="list-style-type: none"> - not appropriate for buildings facing a park to be in the incremental change area - heights in the incremental change area, which have been rising rapidly, should be limited below the proposed mid-rise limit of 14 storeys 	<p>Council submitted these sites demonstrate the following characteristics associated with incremental change areas:</p> <ul style="list-style-type: none"> - they are located within a mixed use area that has heritage significance - the sites and adjoining lots comprise medium scale apartment and townhouse developments. <p>Council submitted that this area is appropriately designated as incremental change.</p> <p>Ms Ancell agreed the area ought to remain an incremental change area as it is within the MUZ, because the site and surrounds have already been developed for medium density housing (townhouses and apartments), fitting with the dwelling typologies potentially anticipated in this change area.</p>

Discussion and conclusion

The Panel considers the land at 2-12 Garryowen Lane and 35 Rose Street, Fitzroy is consistent with the characteristics of an incremental change area. The land is zoned MUZ and is developed with smaller scale apartments.

The Panel does not agree that buildings facing a park should not be included within this category and considers that built form policies and controls should govern amenity issues around a park, rather than limiting housing growth. In this instance, the subject land is on the south side of the park and therefore sunlight to the park is less likely to be impacted by incremental development. The Panel notes that at the same time the Hearing, an interim DDO40 was approved by the Minister for Planning and applied to the subject land. The DDO40 sets out more detailed built form controls and guidance for development in this area. These controls would allow for incremental change of a relatively modest nature for the subject land.

The Panel supports the incremental change category as applied to land at 2-12 Garryowen Lane and 35 Rose Street, Fitzroy.

(viii) 133-137 Victoria Parade, Fitzroy

Evidence and submissions

Submissions	Council and expert response
<p>Request: Redesignate from moderate change to high change (Submission 409, Document 210)</p> <p>Key points:</p> <ul style="list-style-type: none"> - the site is on the periphery of the Melbourne CBD, within a MAC, on a major boulevard and tram routes - these locational attributes demonstrate it is a prime location for a significant development outcome consistent with Plan Melbourne - moderate change is not commensurate to the width of the boulevard (which alleviates visual impact) - the surrounding context is a mix of mid rise, large format institutional and commercial buildings and significant development on this site would sit comfortably within this context and allow an appropriate transition in built form along Victoria Parade - a taller building on this side of Victoria Parade would not result in overshadowing of existing residential areas, public parks or gardens - should the Panel form the view that moderate change is appropriate, requests Panel acknowledgement that a significant built form could be appropriate on the site <p>Submission 348 & Documents 164-165. Key points:</p> <ul style="list-style-type: none"> - do not support the request to change the designation of this land from moderate to high based on its heritage and geographical context (on a hill) 	<p>Council submitted the site is located in the C1Z and is affected by the Heritage Overlay. It is located within a heritage streetscape on a large lot amongst relatively consistent small and narrow lot sizes which are primarily of 'contributory' heritage significance. It lies on a boulevard, is a shallow lot and is affected by the DDO39 which contemplates four storey development on this site.</p> <p>As such, Council submitted that this area is appropriately designated as moderate change.</p> <p>Ms Ancell agreed the site ought to remain a moderate change area primarily because of its location in the Heritage Overlay.</p>

Discussion and conclusion

The Panel notes the context of this site, the mixed use nature of surrounding properties, the wide boulevard of Victoria Parade, the heritage built form interspersed along the boulevard, its location within a MAC, the nearby health and education precinct and the excellent public transport access.

The site has some of the characteristics common to both of the substantial housing change categories.

There is not, however, an absence of site constraints (a characteristic of the high change category) noting both the NRZ1 zoned residential land to the north and the heritage context of the site, and therefore considers the moderate change category to be the most appropriate fit.

The interim DDO39 applying to the site was approved by the Minister for Planning at the time of the Hearing. DDO39 introduces new built form controls for the site, including a preferred height control of four storeys.

The Panel supports the moderate change category to 133-137 Victoria Parade, Fitzroy.

(ix) Campbell Street, Collingwood

Evidence and submissions

Submissions	Council and expert response
Request: Redesignate from incremental change to minimal change (Submission 312, Document 161)	Through its Part C submission Council clarified the land of concern to the submitter was land within the HO312 and zoned MUZ in Dight Street and the MUZ and C1Z zoned land fronting Vere Street. Council explained that the land covered by the HO312 and noted for its 'remarkable consistency' in terms of heritage cottages was zoned NRZ1 and within the minimal change designation.
Key points:	
- the heritage significance of this extensive area of 19 th century workers cottages has not been given sufficient recognition notwithstanding the variations in zoning	

Discussion

There was initially some confusion about which properties were referred to by the submitter. Council and Ms Ancell incorrectly identified a different site and thus the Part B Council submission and evidence given by Ms Ancell are not relevant. Council's Part C submission Document 243 rectified this error in the text but the map remained incorrect.

The Panel turned its mind to whether the characteristics of the subject land differ to any significant extent compared with adjacent land in Campbell Street designated for minimal change, aside from the different zoning applied to the land (NRZ for Campbell Street and MUZ/C1Z for the subject area).

While some parts of Dight Street display intact heritage and consistency, it is more interspersed with small scale commercial and factory style development and small scale apartments than the parts of Campbell and Rupert Streets within the proposed minimal change category.

Upon questioning by the Panel, Council submitted that application of housing change areas through the Housing Strategy were based on consideration of a number of factors and the existence of one characteristic did not automatically assign a particular category to a parcel of land. The Panel considers that the subject land has characteristics consistent with both the minimal and incremental change categories but that overall it does exhibit some potential for some growth due to its mixed use nature and zoning and that this is already occurring.

The Panel supports the incremental change category applied to Dight Street – south of Vere Street and at 37-43 Vere Street.

(x) 53 Hoddle Street, Collingwood**Evidence and submissions**

Submissions	Council and expert response
<p>Request: Redesignate from moderate change to high change (Submission 420, Document 223)</p> <p>Key points:</p> <ul style="list-style-type: none"> - submitted that there is no strategic justification not to include the land within the high change area <p>Relying on the strategic planning evidence of Mr McGurn - the site meets the characteristics of a high change area because it (summarised)⁸⁰:</p> <ul style="list-style-type: none"> - is not remote from the Victoria Street and Smith Street activity centres - has excellent access to public transport - is a large, consolidated parcel of over 5,300sqm. Surrounding lots are also large and may offer opportunities for consolidation - is within the C1Z - has three street frontages providing multiple opportunities for outlook and daylight - does not include heritage buildings and there are no constraints on demolition <p>Further:</p> <ul style="list-style-type: none"> - Hoddle Street does not have the clear landscaped boulevard quality evident in some other moderate change precincts and is largely dominated by the width of the roadway - Hoddle Street is in excess of 40 metres wide in this location and the properties opposite are in the C2Z - land opposite on Islington Street is within the C2Z (where residential use is prohibited) - the land has characteristics which lend support for more intensive development - a comparison of the site against the moderate and high change growth categories shows there is strong justification for designating the site as high change - the Housing Strategy be updated to change the designation of the subject site (and to delete the erroneous inclusion of the C1Z strip on the incremental change map on page 71) 	<p>Council submitted the site is within the C1Z and is not located within the HO. The site is relatively large in an area that has a mix of lot sizes and is located on one of Yarra's key boulevards.</p> <p>Moderate change areas have been generally applied to Yarra's key boulevards, including Hoddle Street, Alexandra Parade, Queens Parade and Victoria Parade.</p> <p>Council submitted it has sought to adopt a uniform approach to its boulevards and the subject land demonstrates characteristics associated with other moderate change areas, including having a mix of lot sizes and landscaped boulevard character.</p> <p>Council submitted that the subject site is not large compared to other individual sites in high change areas and is not located within an activity centre.</p> <p>Council noted the nearby heritage properties and low scale heritage precincts such as HO106.</p> <p>Ms Ancell agreed the site ought to remain a moderate change area as it is located adjacent to several sites with heritage significance. Further, as a site of moderate size, Ms Ancell observed that it is not one of the major SRSs to which the Housing Strategy applies a 'high change' designation.</p>

⁸⁰ Document 91, Expert Witness Statement, S McGurn, pp17, 54-55

Discussion and conclusions

The Panel considers that 53 Hoddle Street has appropriately been designated with a substantial change area classification. The Panel agrees with submissions that the site is:

- a large consolidated parcel of land with three frontages
- has excellent access to public transport
- is proximate to a number of activity centres and employment land in the Gipps Street Major Employment Precinct (MEP)
- is not affected by the Heritage Overlay and while there are heritage properties in the surrounding area there is no heritage streetscape character along this section of Hoddle Street.

The Housing Strategy does not preclude the designation of a single site within a change area but understands that Council has generally considered land on a precinct basis rather than assessing individual sites.

In terms of site constraints, the Panel considered two other factors that Council submitted played an important role in its designation:

- Hoddle Street is one of four major boulevards in Yarra where a consistent approach to housing change is sought, and doesn't include high change areas
- the site is part of the Gipps Street MEP.

The Panel notes the absence of any reference to boulevards in the Housing Strategy and therefore assumes it falls within the criteria about sensitive interfaces and character.

Four key boulevards are recognised through the Amendment, specifically in proposed Clause 15.01-1L (Urban design):⁸¹

Support development along Alexandra Parade, Queens Parade, Victoria Parade and Hoddle Street that:

- Maintains the landscaped character comprising avenue trees along Alexandra Parade, Victoria Parade and the south end of Queens Parade.
- Improves the landscape character of Hoddle Street.
- Provides a scale that reflects the context of the boulevard.
- Improves the pedestrian environments and the public realm along boulevards.
- Creates quality building design and reinforces the importance of the boulevard.

Provide a transition in built form between the boulevards and their low-scale, small-lot hinterlands and any low-scale existing residential areas along the boulevards.

Hoddle Street contains a different strategy to the other three boulevards for landscaped character (to improve rather than maintain) but more generally supports development of a scale that reflects the context of the boulevard and provides a transition to their low scale hinterland or any low scale existing residential development along the boulevards. Land at 53 Hoddle Street does not adjoin low scale residential development.

The Panel agrees with UEM Sunrise that the application of housing change areas across the four boulevards has taken a more nuanced approach than applying a single housing change category. This is consistent with the proposed strategies at Clause 15.01-1L (Urban design) and has not resulted in the consistent or predominant application of the moderate change area along

⁸¹ Exhibited Clause 15.01-1L (Urban design)

boulevards. The Panel finds that the boulevard character of Hoddle Street is not a reason to exclude the site from a particular housing change category.

The Panel is of the view that the site could potentially sit within either substantial change category based on the above site characteristics. The Panel therefore considers the overarching objectives of the Housing Strategy and SEES as expressed in the Amendment to recommend an appropriate category.

The Panel considers the following points are relevant:

- Proposed Clause 02.03-5 (Housing) directs housing growth to appropriate locations described as major regeneration areas (Alphington Paper Mill, the former Gasworks site in North Fitzroy and south-west Cremorne, south of Gough Street) as shown on the Framework Plan in Clause 02.04-1, and areas within activity centres that have good access to public transport, jobs, open space and other services.
- Proposed Clause 16.01-2L (Location of residential development) makes it clear that the majority of new housing should be directed to activity centres or major regeneration areas (Panel's emphasis). 53 Hoddle Street is not in a designated activity centre or major regeneration area.
- Proposed Clause 02.03-6 (Economic development) identifies that Yarra has capacity for employment growth and is committed to supporting this growth in its employment areas in preference to residential development in these locations.⁸²
- Proposed Clause 02.03-6 (Economic development) also contains strategies to minimise pressure for residential conversion of employment precincts, and to preserve and grow employment areas by supporting the economic primacy of employment precincts and by supporting employment land.
- Employment areas are defined at proposed Clause 02.01-8 (Economic development) and include:
 - activity centres
 - MEPs
 - employment land (namely commercial and industrial land outside of activity centres and MEPs)
 - health and education precincts.
- The site is zoned C1Z and the Amendment proposes to include the site (and the wider C1Z strip) within the Gipps Street MEP.
- Whether the site is within a MEP, or whether it is simply 'employment land', the overarching objectives for housing and employment growth somewhat temper the expected level of housing growth that could be anticipated for the subject site.

The Panel concludes it appropriate that the moderate change category is applied to 53 Hoddle Street, Collingwood.

The Panel informally recommends the Council update the incremental change area map on page 71 of the Housing Strategy to delete the erroneous inclusion of the C1Z strip of land along Hoddle Street of which the subject site forms a part.

Issues relating to the inclusion of the property in the Gipps Street MEP are discussed in Chapter 7.

⁸² With strategic justification provided by the SEES

(xi) 1 Turner Street, Abbotsford**Evidence and submissions**

Submissions	Council and expert response
<p>Request: Redesignate from minimal change to incremental change (Submission 424, Document 213)</p> <p>Key points:</p> <ul style="list-style-type: none"> - the zoning and scale of development of this land appears to be 'at odds' with the proposed minimal change housing designation 	<p>Council submitted this site ought be redesignated to an 'incremental change' area as it demonstrates the following characteristics associated with incremental change areas:</p> <ul style="list-style-type: none"> - largely within a C1Z area - located on a large lot amongst relatively consistent small and narrow lot sizes - partially within Heritage Overlay (HO327- Victoria Park Precinct, Abbotsford) - the scale of the existing development on the site (4 storeys) reflects incremental change areas. <p>Accordingly, the post exhibition 'Panel version' of Clause 16.01-2L redesignates this site to 'incremental change'.</p> <p>Ms Ancell agreed with the proposal to change the designation of this site to incremental change.</p>

Discussion and conclusion

The Panel supports Council's position to redesignate this site from minimal to incremental change based on the site's existing characteristics and growth potential. No submissions opposed this proposed change.

The Panel concludes the incremental change category applied to 1 Turner Street, Abbotsford is appropriate.

(xii) 288-296 Johnston Street, Abbotsford**Evidence and submissions**

Submissions	Council and expert response
<p>Request: Redesignate from moderate change to high change (Submission 424, Document 213)</p> <p>Key points:</p> <ul style="list-style-type: none"> - the subject site has an existing planning permit for an eight-level mixed use development due to expire on 27 November 2021 - a current planning permit application is live for the site seeking permission to develop an 11-storey mixed use development with 73 residential apartments - DDO15 applies to the site and separates the Johnston Street NAC into a series of precincts <ul style="list-style-type: none"> - the subject site is within Precinct 2A - DDO15 sets out built form guidelines. The 	<p>Council submitted that the exclusion of the subject site from the moderate change area is not a drafting error but an intentional reflection of the expectation for a contextual response to the adjoining heritage building to the east and its proximity to incremental and minimal change areas to the north and northeast.</p> <p>By contrast, the land to the west of the subject site is an island site between Lulie Street and the railway bounded by railway land to the north. It has the opportunity to create a new character in a way which is less constrained than the lower scale interfaces to the north and east.</p> <p>Council submitted the sites demonstrates the following characteristics associated with the moderate change area:</p> <ul style="list-style-type: none"> - zoned C1Z and located within a NAC

Submissions	Council and expert response
<p>outcomes sought for Precinct 2A are to be distinguished from adjacent land in Precinct 2B and opposite in Precinct 2C. For example Precinct 2A has no mandatory maximum height limits where as 2B and 2C both do</p> <ul style="list-style-type: none"> - the subject site is proposed to be included within a moderate change area, whereas the other properties within Precinct 2A have been nominated for high change - the exhibited version of DDO15 proposed the land to be included within the same precinct as adjoining land to the east, however after much discussion and analysis at the Panel Hearing for Amendment C220 it was recommended to be included with land that now forms Precinct 2A which allows a greater scale of development 	<ul style="list-style-type: none"> - have not been consolidated and have a mix of lot sizes - the smaller adjoining lots are of individual significance and contribute towards the overall heritage significance of the area. <p>Ms Ancell agreed the site ought to remain a moderate change area. She observed the two adjacent high change areas include an “island” site separated from other lots by roads and rail, and a large development site approximately four times the size of 288-296 Johnston Street.</p>

Discussion and conclusion

The Panel supports the designation of a substantial housing change area category to the site. The site is within an activity centre and it has excellent access to services, open space and public transport. The Panel is of the view that the site more closely aligns with the characteristics of the moderate change area in that it has sensitive interfaces to the north and east, both heritage and land within the NRZ1.

DDO15 applies to the site and other sites within Precinct 2A (which is also applied to the subject land) have been designated the high change category. The Panel agrees with Ms Ancell that the other sites within the Precinct 2A display characteristics more aligned with the high change designation as they do not have the same site constraints.

DDO15 clearly sets out the development parameters for the subject site. As noted earlier in this Chapter, the Panel acknowledges the role of proposed Clause 16.01-2L (Location of residential development) is to guide housing growth rather than specific built form outcomes. However, the detailed built form controls applied to a site will impact on the level of residential development that is able to be accommodated.

The moderate change designation, coupled with the built form guidelines in the DDO15, will allow for substantial housing growth on the site appropriate to its context.

The Panel supports the moderate change category as applied to land at 288-296 Johnston Street, Abbotsford.

(xiii) Land between Gipps Street, Park Street, Stanton Street and the Train Line

Evidence and submissions

Submissions	Council and expert response
Request: Redesignate from incremental change to minimal change (Submission 95)	Council submitted the area of land between Gipps Street, Park Street, Stanton Street and the train line ought remain in the incremental change area, as it is located in

Submissions	Council and expert response
<p>Key points:</p> <ul style="list-style-type: none"> - questions why the small section bound by Gipps Street, Park Street, Stanton Street and the train line is considered as incremental change - submits it is a small area bound by a minimal change area, and as of today, it is identical to the surrounding area. It is quiet, and mostly single dwelling blocks, and not high density 	<p>the GRZ.</p> <p>In contrast, minimal change areas have been generally applied to land within the NRZ. The NRZ is the most restrictive of the residential zones. The NRZ was applied in Yarra to areas identified as having special heritage and landscape character values that distinguish the land from other parts of the municipality. While the pocket of land bounded by Gipps Street, Park Street, Stanton Street and the train line is in a precinct wide Heritage Overlay (HO313), it is largely occupied by townhouses constructed circa 1990-2000, which are not contributory to the significance of the broader heritage precinct.</p> <p>Ms Ancell agreed that the area should remain an incremental change area on the basis that the site is within the GRZ, is not contributory within the HO, and is next to a train station so it is of particular importance to provide opportunities for some level of change to take advantage of its strategic location.</p>

Discussion and conclusion

The Panel agrees with Council and Ms Ancell that the land is consistent with the characteristics of an incremental change area. The land is zoned GRZ, has not been identified as having contributory heritage values and is developed with many smaller scale townhouses.

The Panel does not agree that the incremental change category is consistent with a high density residential development outcome, but rather anticipates a model level of housing growth over time.

The Panel supports the incremental change category applied to land between Gipps Street, Park Street, Stanton Streets and the train line.

(xiv) 39-47 Lithgow Street, Abbotsford

Evidence and submissions

Submissions	Council and expert response
<p>Request: Redesignate from incremental change to moderate change (Submission 416, Document 171)</p> <p>Key points:</p> <ul style="list-style-type: none"> - the site contains an existing, predominantly two-storey 19th century brick industrial building, sometimes referred to as the <i>Former Schweppes Cordial Factory</i>, and has been identified as individually significant in the HO399 precinct - DDO21 applies to the site with a mandatory maximum building height of 18m - a comparison of moderate and incremental 	<p>The site demonstrates the following characteristics associated with incremental change areas:</p> <ul style="list-style-type: none"> - the site is in the MUZ, it is identified as individually significant in the HO339 and is adjacent to a heritage streetscape - the site is located on a large lot among relatively consistent small and narrow lot sizes which are primarily of contributory significance - Lithgow Street is a narrow street with a single shared bike path and car lane in each direction. <p>Council submitted its designation was appropriate given the context of the surrounding precinct, located at the very perimeter of the MAC surrounded by minimal</p>

Submissions	Council and expert response
<p>change categories shows the site as located within a MAC is more closely aligned it to the moderate change category</p> <ul style="list-style-type: none"> - the site is substantial in size and underutilised - the site is in a mixed use area comprising a mix of lot sizes, with some sensitive interfaces – all characteristics that can apply to a moderate change area 	<p>change areas.</p> <p>Ms Ancell agreed the site should remain in the incremental change area because of the application of the MUZ and HO, it is adjacent to a heritage streetscape, and noting that incremental change allows for smaller scale apartment development.</p>

Discussion and conclusion

Identifying the most appropriate category for this site proved challenging for the Panel. The Panel agrees with James Richardson Corporation Pty Ltd that the site exhibits many characteristics common to both the moderate and incremental change areas and accepts that activity centres are only specifically referenced in moderate or high change areas. Notwithstanding, the Panel accepts that having one characteristic does not equate to the application of a housing change category as it is important to consider other characteristics and the expected level of housing change within an area. The Panel acknowledges that Council has generally approached housing change application on a precinct basis with individual sites generally restricted to high change areas.

The site is on a large lot, within a MAC, zoned MUZ, with individual heritage significance and excellent access to services, open space and public transport. The Panel understands Council's position that the site is at the edge of the MAC and surrounded by sensitive uses, adjacent to land within both the minimal and incremental change categories but more remote from other moderate change areas along Victoria Parade.

An interim DDO applies to the site, DDO22, which is due to expire in June 2022. Council submitted that it is currently preparing a permanent DDO which would apply to the site, and reduce the height contemplated for the land from 5 storeys to 4 storeys. The Panel was not presented with any detail or strategic justification for this proposal, notes that it is still in the development phase and has not been through a public exhibition process. The Panel therefore cannot take into account any housing capacity constraints that may be presented by this proposal.

The Panel considered the question of what is the expected level of housing growth in this area.

The Panel is of the view that:

- a moderate level of change could be expected on the site based on site characteristics and its capacity for growth, partly shaped by the DDO22
- proposed Clause 16.01-2L (Location of residential development) includes a strategy for moderate growth to support medium density development that respond to heritage significance and streetscape character
- the zone and overlay controls will also moderate the built form outcome for the site. In particular, the heritage significance of the site and surrounds will inform development outcomes alongside the DDO22 which includes a strategy requiring development to respect the low scale existing development adjoining the activity centre
- the scale and form of moderate change for this site will be different to moderate change for other locations due to the local context, but that within this local context the capacity of the site nonetheless allows for a substantial level of change

- housing change of this scale would not constitute smaller scale apartment development and would be inconsistent with expectations for incremental change areas.

The Panel concludes the moderate change category should be applied to 39-47 Lithgow Street, Abbotsford.

(xv) Malleson Street and Wall Street, Richmond

Evidence and submissions

Submissions	Council and expert response
<p>Request: Redesignate from incremental change to minimal change (Submission 381, Documents 184 to 188)</p> <p>Key points:</p> <ul style="list-style-type: none"> - the area should be minimal change in line with surrounding residential development of single / double storey - is the area has heritage values - from the Coppin/Wall/Malleson intersection, houses on the west side part of the way down to Dame Nellie Melba Park should also be minimal change 	<p>Council submitted this area ought to remain an area of incremental change because it is located within the GRZ and displays a consistent fine-grain subdivision pattern and small lot sizes. Council submitted this area has the capacity to accommodate a more modest level of housing growth over time.</p> <p>Ms Ancell agreed that the area should remain an incremental change area because it is in the GRZ and is not subject to a Heritage Overlay.</p> <p>Further information supplied by Council identified 11 of the 12 properties affected by the HO as having contributory significance to the heritage precinct HO319.</p>

Discussion and conclusion

The subject land includes properties in Malleson Street extending to Wall Street (on the north and south sides), affected by the HO319 and zoned GR22, with one property at 16 Wall Street in the C1Z. It also includes land on the west side of Coppin Street, zoned GR22, not within the HO319, from the intersection of Malleson Street and Coppin Street extending up to Dame Nellie Melba Park.⁸³

The subject land within the HO319 includes residential properties with a generally fine grain subdivision pattern. While it is in the GR22 and not the NRZ, it does not display mixed use or commercial characteristics or apartment style development which is readily apparent on adjoining land to the east. Land to the east is outside the Heritage Overlay and is zoned C1Z on the south side and GR22 on the north side.

The Statement of Significance for HO319 emphasises:

- Historic housing form (pitched gabled or hipped roofs, one storey wall heights with a smaller amount of two storey dwellings), material and detailing (walls of weatherboard or face brick or stucco, prominent brick or render chimneys, post-supported verandahs facing the street) etc.
- The consistency and intactness of the Edwardian house group in Malleson Street.⁸⁴

Council advised that 11 of the 12 properties within the subject land and included in the HO319 are identified as being of contributory heritage significance.

⁸³ As described in Submission 381

⁸⁴ Document 254, updated Malleson Street, Richmond slide, submitted by Council

The Panel considers the GR22 (which limits building height to 9 metres) when combined with the above heritage factors will likely limit the area to minimal change. It is quite different from nearby GR22 or C1Z land, which already displays a broader range of use and development and further scope for incremental change. The anomaly is the property at 16 Wall Street which is zoned C1Z. Taking a precinct approach, it shares the same characteristics as adjoining land to the west and is included within HO319 forming the last property in a row of cottages with Wall Place along its eastern boundary. Wall Place presents as a clear break between heritage properties on the west side and apartment style development on the east.

With regard to the subject land on the west side of Coppin Street to Dame Nellie Melba Park, the Panel observes that the area mostly displays a fine grain character, but is not within the HO319 and is already undergoing some change.

The Panel concludes the minimal change category should be applied to land known as 9-19 Wall Street and 2-16 Wall Street, Richmond. The Panel recommends that land on the west side of Coppin Street, from the Wall Street intersection to the Dame Nellie Melba Park remain in the incremental change area.

(xvi) Porta Site (224-256 Heidelberg Road, Fairfield)

Evidence and submissions

Submissions	Council and expert response
Request: Redesignate from moderate change (Submission 344)	Council submitted his site is primarily within the C1Z and is partly affected by a HO. It is a large site with excellent access to open space and services.
Key points:	Council submitted it is appropriately designated as moderate change.
- it is surrounded by parklands, cricket ovals, etc and doesn't warrant being a moderate change area	

Discussion and conclusion

The Panel accepts that this site is a commercial area, with excellent access to services, and open space, is a large lot and generally exhibits characteristics aligned with a moderate change area. It does not display characteristics associated with either of the lesser change areas, and does not warrant designation as a high change area as it is not within an activity centre or a major regeneration site, but rather is within an employment area where the highest level of housing growth is not encouraged. The Panel notes that during the Hearing an interim DDO was approved for the site that will regulate built form outcomes but still allow for the site to accommodate moderate housing growth.

The Panel supports the moderate change category applied to 224-256 Heidelberg Road, Fairfield.

(xvii) Heidelberg Road in Alphington (between Parkview Road and Como Street)

Evidence and submissions

Submissions	Council and expert response
Request: Redesignate from moderate change to incremental change (Submission 330)	Council submitted the area is appropriately designated because it demonstrates the following characteristics:
Key points:	- it is in a C1Z which has the capacity to accommodate

Submissions	Council and expert response
<ul style="list-style-type: none"> - incremental change is needed to remain within neighbourhood character (typically no more than 3 storeys) and so as not to ruin the neighbourhood feel of Heidelberg Road <p>Request: Redesignate from moderate change (Submission 328)</p> <p>Key points:</p> <ul style="list-style-type: none"> - residential development should be complementary to the commercial, business and community uses of the activity centre - questions housing demand data and analysis - concern about impacts of higher density development on the local climate of Heidelberg Road and heritage - concern about potential heights this designation would allow 	<p>moderate housing growth over time</p> <ul style="list-style-type: none"> - it is largely unaffected by the Heritage Overlay - has excellent access to services, open space and public transport - has mixed lot sizes. <p>Ms Ancell agreed this area ought to remain a moderate change area as it is within a NAC, in the C1Z and not subject to the Heritage Overlay.</p> <p>Mr Szafraniec also considered its designation as a moderate change area to be appropriate given the existing uses in the area, future development of the AMCOR site and proximity to transport services.</p>

Discussion and conclusion

This land is within the Heidelberg Road NAC, is commercial in nature, includes one property and adjoins one property affected by the Heritage Overlay and is generally consistent with the characteristics of a moderate change area. It does not display characteristics associated with either of the lesser change areas, and does not warrant designation as a high change area as it is not without site constraints and has a mix of lot sizes. The Panel notes that during the Hearing, an interim DDO was approved for the site which will regulate built form outcomes but should not impact on the capacity of the site to accommodate moderate housing growth.

The Panel supports the moderate change category applied to land along Heidelberg Road in Alphington (between Parkview Road and Como Street).

(xviii) AMCOR / Alphington Paper Mill Site (626 Heidelberg Road, Alphington)

Evidence and discussions

Submissions	Council and expert response
<p>Request: Redesignate from high change (Submission 344)</p> <p>Key points:</p> <ul style="list-style-type: none"> - will have ramifications for the immediate area 	<p>Council submitted the former AMCOR site demonstrates the following characteristics associated with high change areas:</p> <ul style="list-style-type: none"> - excellent access to services, open space and public transport - large lot sizes - includes the redevelopment of the former Alphington Paper Mill site which is anticipated to supply approximately 2,500 new dwellings - the vision for the site as a major residential precinct also includes shops, offices, open spaces and community facilities. <p>Ms Ancell agreed the site should remain in the high</p>

Submissions**Council and expert response**

change area as it is one of the municipality's largest major redevelopment sites.

Discussion and conclusion

The Panel agrees with Council and Ms Ancell that this site should be in the high change category because it is one of Yarra's major regeneration areas, where the highest levels of growth are encouraged, expected and is anticipated to undergo substantial change.

The Panel recommends that the high change category be applied to land at the AMCOR / Alphington Paper Mill Site (626 Heidelberg Road, Alphington).

(xix) 84-104 Johnston Street, Fitzroy**Evidence and submissions****Submissions****Council and expert response**

Request: Redesignate from moderate change to high change (Submission 429, Document 98)

Key points:

- the site has main road frontage, proximity to higher order activity centres, excellent access to public transport and bicycle infrastructure and significant separation from sensitive sites
- is essentially an island site, with frontage to both Johnston Street and Fitzroy Street with no direct abutting interfaces

Council submitted the site is appropriately designated a moderate change area because it:

- is within the C1Z
- is affected by a HO
- is located in an intact heritage streetscape
- is located within a NAC
- has excellent access to services, open space and public transport.

Ms Ancell agreed that the site should remain in the moderate change category and stated that it sits within a heritage streetscape and as a site of moderate size, it is not one of the major redevelopment sites to which the Housing Strategy applies the high change area designation.

Discussion and conclusion

The Panel accepts that this site is part of the Johnston Street NAC, is within a commercial area, with excellent access to services, and public transport, is a reasonable sized lot and generally exhibits characteristics aligned with a moderate change area. It does not warrant designation as a high change area as it is not without site constraints and is not particularly large in its own right.

The Panel recommends that the moderate change category be applied to 84-104 Johnston Street, Fitzroy.

(xx) Summary of conclusions and recommendations

The Panel concludes:

- The following sites should remain in the housing change categories which applied at exhibition:

Incremental change

- Nicholson Street Neighbourhood Activity Centre (west side)
- 6-14 Ramsden Street, Clifton Hill

- 2-12 Garryowen Lane and 35 Rose Street, Fitzroy
- Dight Street (south of Vere Street) and 37-43 Vere Street, Collingwood⁸⁵
- Land between Gipps Street, Park Street, Stanton Street and the train line, Abbotsford
- Land on the west side of Coppin Street, from the Wall Street intersection to the Dame Nellie Melba Park, Richmond⁸⁶

Moderate change

- 133-137 Victoria Parade, Fitzroy
- 53 Hoddle Street, Collingwood
- 288-296 Johnston Street, Abbotsford
- Porta Site, 224-256 Heidelberg Road, Fairfield
- Heidelberg Road, Alphington (between Parkview Road and Como Street)
- 84-104 Johnston Street, Fitzroy

High change

- AMCOR / Alphington Paper Mill site, 626 Heidelberg Road, Alphington
- The housing change categories for the following sites should be amended to reflect their role in the provision of future housing growth:

Minimal change

- Rathdowne Street Neighbourhood Activity Centre
- 104-118 Queens Parade, Fitzroy North
- 9-19 Wall Street and 2-16 Wall Street, Richmond⁸⁷

Incremental change

- Precinct 4, Queens Parade Neighbourhood Activity Centre
- 1 Turner Street, Abbotsford

Moderate change

- 39-47 Lithgow Street, Abbotsford
- The incremental change map on page 71 of the Housing Strategy erroneously includes the C1Z strip of land along Hoddle Street, including land at 53 Hoddle Street, Collingwood.

The Panel recommends:

6. Amend the housing change area maps in proposed Clause 16.01-2L (Location of residential development) to show the following sites within the categories listed below:

a) Minimal change

- Rathdowne Street Neighbourhood Activity Centre
- 104-118 Queens Parade, Fitzroy North
- 9-19 and 2-16 Wall Street, Richmond

b) Incremental change

- Precinct 4, Queens Parade Neighbourhood Activity Centre
- 1 Turner Street, Abbotsford

c) Moderate change

- 39-47 Lithgow Street, Abbotsford.

⁸⁵ Referred to in Council's submissions as Campbell Street, Collingwood

⁸⁶ Part of the area referred to in Council's submissions as Malleson and Wall Streets, Richmond

⁸⁷ Part of the area referred to in Council's submissions as Malleson and Wall Streets, Richmond

Further recommendations

The Panel informally recommends the Housing Strategy be amended through a separate process to change the:

- incremental change map on page 71 to delete the erroneous inclusion of the C1Z strip of land along Hoddle Street, including land at 53 Hoddle Street, Collingwood
- housing changes areas in accordance with the recommendation in this Chapter.

6.5 Housing Diversity and Affordable Housing

(i) The issues

The issues are whether:

- proposed Clause 16.1-3L (Housing diversity) captures the range of different housing structures required
- in relation to Clause 16.1-4L (Housing affordability):
 - the reference to key workers should be expanded
 - the percentage for provision of affordable housing is appropriate
 - a social housing requirement should be included.

(ii) Evidence and submissions

Housing diversity

Submissions about housing diversity mostly focussed on seeking clarification around whether the proposed Clause 16.01-3L (Housing diversity) adequately encouraged the range of housing required to support Yarra's diverse community.

Yarra Climate Action Now (YCAN) (Submission 289) suggested including a strategy to support multi-generational accommodation and ageing in place through granny flat / semi separate style accommodation, rather than encouraging alterations that could encourage large extensions.

Council submitted the Amendment seeks to provide a decision making framework that ensures the planning outcomes will address equitable housing outcomes. This is expressed through the three proposed local housing policies at Clause 16⁸⁸. Council submitted that proposed Clause 16.01-3L (Housing diversity) was supplemented by proposed strategic directions in the MPS which states:⁸⁹

Support Yarra's diverse community by facilitating accessible, adaptable, affordable housing options that:

- Provide for diverse housing types including shared, sole person, couple and family households.
- Include housing for people with disabilities, older persons, students and those in need of crisis accommodation.
- Provide for a range of affordable housing types appropriate to the needs of very low, low and moderate-income households.
- Include greater housing choice for key workers.

⁸⁸ Document 242 – Council's Part C submission, page 33

⁸⁹ Attachment 3 Response to Submissions Table, Council Report 3 August 2021

- Encourages the supply of additional social housing and improvements to existing social housing.

Council did not support any changes beyond minor language improvements to the wording of housing diversity policy.

Housing affordability

Many submissions expressed support for the provision of affordable housing in Yarra, with a large number of these seeking more than 10 per cent provision⁹⁰. Other submissions requested that the provisions be made mandatory or used stronger wording, requested inclusionary zoning requirements or that the provision of affordable housing should be greater than 20 dwellings (rather than 50).⁹¹

Some submissions requested definitions of affordable and social housing be included in the local policy at proposed Clause 16.01-4L (Housing affordability) and/or requirements for the provision of social housing in addition to affordable housing.

Council referred the Panel to Attachment 3 (Response to submissions table) to the 3 August 2021 Council report in response to these submissions. Council noted that proposed Clause 16.01-4L (Housing affordability) is intended to implement key Strategic Direction 4 of the Housing Strategy and Strategic Direction 1 of the Affordable Housing Strategy which seeks to *“enhance Council’s policy and practice in regard to affordable housing agreements at significant developments”*. Council emphasised that at present in Victoria, affordable housing can only be facilitated through the planning system via a voluntary negotiation which limits the ability for Council to mandate affordable housing outcomes.

Council noted that affordable housing is defined under section 3AA of the PE Act which states:

... affordable housing is housing, including social housing, that is appropriate for the housing needs of any of the following:

- (a) very low-income households;
- (b) low income households;
- (c) moderate income households.

...

“social housing” has the same meaning as in section 4(1) of the Housing Act 1983 which states that Social Housing is public housing; and housing owned, controlled or managed by a participating registered agency.

Panel asked Council whether the objective of proposed Clause 16.01-4L (Housing affordability) was intended to facilitate affordable housing for key workers only or more generally. Council responded that it was intended to apply to all households defined under the Act and not just key workers.⁹²

Ms Ancell gave evidence that seeking a minimum 10 percent affordable housing contribution was an appropriate target based on analysis in the Affordable Housing Strategy and that a higher percentage would not be justified. Ms Ancell identified State policy support for affordable housing

⁹⁰ Including Submissions 46, 50, 79, 87, 162, 176, 189, 196a, 292, 296, 301, 302, 308, 317, 323, 371, 372, 377

⁹¹ Submissions 289, 302, 311

⁹² Document 105, Council Part B Submission, page 114

contributions, and confirmed under current legislation they can only be sought on a voluntary basis.

Ms Ancell opined that:

... there is a stronger nexus for seeking contributions on sites where rezonings and/or revisions to planning controls create value uplift and the contribution would be a portion of that uplift, as compared with seeking contributions on sites with existing zoning and planning controls in place. On the basis that the affordable housing contributions are sought using the voluntary tools currently available, I am comfortable with Clause 16.1-4L providing the basis to seek voluntary contributions on both residential rezonings and major residential redevelopments of 50 or more dwellings.⁹³

Ms Ancell recommended Council provide guidance to confirm how the contribution is to be calculated through a guidance document sitting outside the Planning Scheme.⁹⁴

The Panel queried the use of the term 'the capacity' for the two policy guidelines finding it confusing and not readily apparent how this would assist in decision making. Council responded that it had proposed the term 'a requirement', that DELWP had amended the term as a condition of authorisation and therefore Council could not provide insight into the intention behind the words. Council submitted it would support reverting to the original terminology submitted for authorisation.⁹⁵

In relation to drafting, Ms Ancell suggested a reference to hospitality, arts, child care, cleaning and laundry workers should be inserted into the key workers definition within the strategy, to match the background policy document (Social and Affordable Housing Strategy 2019).

Council did not support this.

(iii) Discussion

The Panel finds that between the MPS and the proposed Clause 16.01-3L (Housing diversity), the Amendment provides support for a wide variety of housing types to meet the needs of the diverse Yarra community. There is no need for additional strategies or policy to supplement what is proposed through the Amendment.

With regard to housing affordability, the Panel acknowledges the submissions of Council and evidence of Ms Ancell that affordable housing contributions are currently enacted through voluntary agreements. The Panel agrees with Ms Ancell that the policy proposed is an appropriate tool within this context, and that the policy guidance is strategically justified by the Affordable Housing Strategy.

With regard to a social housing contribution requirement, the definition of affordable housing under the PE Act includes social housing and therefore the policy guidelines in proposed Clause 16.01-4L (Housing affordability) would include social housing.

The Panel acknowledges the significant level of support expressed by the community for both affordable and social housing.

The Panel accepts Council's submission that the policy is intended to facilitate the provision of affordable housing for all households defined under the PE Act and not just key workers. For this

⁹³ Document 85, Expert Witness Statement S Ancell, pp 44-45

⁹⁴ Document 85, Expert Witness Statement S Ancell, pp 45

⁹⁵ Document 125, Council Supplementary Part B Submission, page 48

reason, the Panel recommends that the reference to key workers in this context is removed. That is not to downplay the importance of key workers to Yarra, and the Panel is of the view that many key workers would fall within the definition of low to moderate income earners and therefore would be included within the affordable housing definition under the PE Act. The Panel is concerned that if the reference is not removed, it may unintentionally exclude many other people in need of affordable housing. Consequently, the Panel does not support Ms Ancell's suggestion to expand the definition of key worker in the local policy.

The Panel does not support use of the term 'the capacity', but is of the view that 'a requirement' cannot be used as it would not be consistent with the Practitioner's Guide which makes it clear that strategies should not include the word 'require'. The Panel recommends the policy guidelines are amended as follows:

Consider as relevant:

- ~~The capacity for a rezoning to residential use to provide~~ Provision of a minimum of ten per cent affordable housing for a rezoning to residential use.
- ~~The capacity of a major residential development of 50 or more dwellings to deliver~~ Provision of a minimum of ten per cent of affordable housing for a major residential development of 50 or more dwellings, unless affordable housing has been provided as part of an earlier rezoning of the site.

(iv) Conclusions and recommendations

The Panel concludes:

- Clause 16.1-3L (Housing diversity) adequately supports the range of different housing structures required to meet the needs of the Yarra community.
- The reference to key workers in the first objective of Clause 16.01-4L (Housing affordability) should be removed.
- The policy guidelines in proposed Clause 16.01-4L (Housing affordability) supporting an affordable housing contribution are appropriate but the use of the term 'the capacity' should be revised.
- The provision of ten percent affordable housing is justified through the Affordable Housing Strategy and there is no current rationale to alter this amount.
- Social housing falls within the definition of affordable housing and is therefore covered by the proposed policy guidelines in proposed Clause 16.01-4L (Housing affordability).

The Panel recommends:

7. Amend Clause 16.01-4L (Housing affordability) to:

a) revise the first objective to state:

- *To facilitate the provision of affordable housing and social housing (public and affordable community housing), including new social housing and upgrades to existing social housing.*

b) revise the policy guidelines to:

- *Consider as relevant:*
 - *Provision of a minimum of ten per cent affordable housing for a rezoning to residential use.*
 - *Provision of a minimum of ten per cent of affordable housing for a major residential development of 50 or more dwellings, unless affordable housing has been provided as part of an earlier rezoning of the site.*

7 Employment Precincts

(i) What is proposed?

Strategic directions for economic development in Yarra are set out in proposed:

- Clause 02.03-6 (Economic development)
- Clause 02.04 (Strategic Framework Plan)
- Clause 11.03-1L (Activity centres)
- Clause 17.01-1L (Employment)
- Clause 17.02-1L (Retail)
- Clause 17.04-1L (Tourism, arts and culture)
- Clause 19.02-1L (Yarra's health precincts)
- Clause 19.02-2L (Yarra's education precincts)

The clauses in the MPS contain new policy content, as does proposed Clause 17.03L (Activity centres), whereas the other five local policies relating to employment are an update of existing policy with new content.⁹⁶

New policy relating to activity centres is discussed in Chapter 5 and is not repeated here.

It is proposed to include the SEES in the new Schedule to Clause 72.08 (Background documents).

(ii) Background and relevant documents

The purpose of the SEES is to assist Council to understand and capitalise on Yarra's economic strengths and respond to key trends and drivers over the next 10 to 15 years.

The SEES sets out a vision for Yarra's employment lands that supports a diverse and modern economy, which is wide reaching and adds to Melbourne's brand as a creative urban economy. It includes six objectives:⁹⁷

- Provide sufficient employment land and capacity to support projected growth.
- Minimise pressures for residential conversion of employment precincts.
- Promote Yarra's Activity Centres as the preferred locations for retail, services and facilities, and entertainment opportunities for Yarra's residents and visitors alike.
- Promote Yarra's major employment precincts as locations for a wide variety of businesses and services that are a vital part of Melbourne's inner city economy.
- Support the growth of Yarra's two health and education precincts.
- Manage the transition of larger industrial uses, if and when these transitions occur.

The SEES also includes six strategies which provide more detail about how the objectives will be achieved:⁹⁸

- Strategy 1: Support employment growth in Activity Centres
- Strategy 2: Retain and grow Yarra's Major Employment Precincts
- Strategy 3: Identify preferred locations for housing growth

⁹⁶ Document 84, Council Part A Submission, Attachment A

⁹⁷ Document 68, SEES, page 58

⁹⁸ Document 68, SEES, page 59

- Strategy 4: Support the expansion of health-related employment and services in Yarra's health precincts
- Strategy 5: Retain other C2 zoned precincts (unless strategic planning support change)
- Strategy 6: Retain Yarra's existing industrial precincts for manufacturing and urban services.

The SEES identifies sufficient capacity within the employment areas to accommodate employment growth and recommends retaining employment zoning in the Gipps Street and Cremorne MEPs to protect their potential for growth. It recognises the need for more built form guidance in these areas.

(iii) The issues

The issues are whether:

- site amalgamation should be encouraged in the MEPs
- further strategic work is required for the Cremorne MEP to guide development of the precinct and whether this should be recognised through the Amendment
- land in the C1Z on the west side of Hoddle Street (between Victoria Parade and Hood Street, and including 53 Hoddle Street) should be in the Gipps Street MEP.

(iv) Evidence and submissions

Site amalgamation

Riseheath Pty Ltd (Riseheath) requested that proposed Clause 17.01-1L (Employment):

... be amended by deleting the word 'consolidation' from the strategy 'encourage the consolidation and intensification of employment land within Yarra's major employment precincts'⁹⁹

Riseheath submitted that encouraging the amalgamation of smaller sites in Cremorne into larger sites could negatively impact the character of the area, resulting in the potential discontinuation of laneways.

Council submitted that the SEES referred to intensification of employment land rather than consolidation and recommended the proposed Clause 17.01-1L (Employment) be amended to delete the word 'consolidation' from the strategy.

Cremorne MEP

Riseheath supported designation of the Cremorne Precinct as a MEP but submitted there was a lack of built form guidance within the Amendment, and in particular it was inappropriate to encourage mid-rise development in the absence of specific built form controls.

As a unique employment node recognised by both State and local government, Riseheath submitted there had been little detailed built form guidance prepared for Cremorne.

With regard to the above issues, Riseheath requested the following changes to the Amendment (summarised):

- Amend proposed Clause 15.01-2L (Building design) as follows:
Building heights

⁹⁹ Submission 324, Riseheath, page 3

- Ensure the height of new buildings respond to the height of adjoining development, unless indicated otherwise in the Planning Scheme.
- Ensure that development reflects the predominant low-rise character of the area, except in the areas below:
 - Activity centres (as shown on the Strategic Framework Plan in Clause 02.04-1 and Clause 11.03-1L).
 - Employment areas (as defined in Clause 02.01 excluding Cremorne unless indicated otherwise in the planning scheme).
 - Major regeneration areas (as shown on the Strategic Framework Plan in Clause 02.04-1)
 - Boulevards (as defined in Clause 02.03).

Mid-rise development

- Direct mid-rise development to the following locations:
 - Appropriate locations within major and neighbourhood activity centres
 - major employment precincts, commercial and industrial land (as defined in Clauses 02.01 and 11.03-1L excluding Cremorne unless indicated otherwise in the planning scheme).
- Proposed Clause 15.01-1L (Urban design) – add an additional strategy under the heading Laneways:
 - Support development that retains and enhances public laneways.
- Insert a new schedule at Clause 74.02 (Further strategic work) which includes a provision for Council to “*provide a roadmap for the completion of the review of current planning policy and controls*” for Cremorne.¹⁰⁰

Riseheath submitted it was particularly important to reference further strategic work in the Planning Scheme or risk it being overlooked and not given priority.

Council submitted it was appropriate to direct mid-rise buildings to locations such as Cremorne and:

It is acknowledged that there is a need to better manage and respond to increased development activity in Cremorne to ensure the suburb remains a vibrant and attractive place for the residents, workers and businesses.

The Cremorne Place Implementation Plan, December 2020 (CPIP) is a joint initiative between the State Government and Yarra City Council to guide the future of Cremorne, building on its unique attributes and location. A key action of the CPIP is to plan for and manage development in Cremorne.¹⁰¹

As it is progressing the actions in the CPIP, Council did not agree that changes were required to the Amendment. Council advised that consultation about actions in the CPIP would commence in 2022. Council submitted there was no value in identifying strategic work in Clause 74.02 because it could not be used to inform statutory decision making.¹⁰²

C1Z land on the west side of Hoddle Street

UEM Sunrise submitted there was a lack of strategic justification to include land in the C1Z on the western side of Hoddle Street, between Victoria Parade and Hood Street in the Gipps Street MEP.

¹⁰⁰ Document 185, Panel submission – Riseheath

¹⁰¹ Attachment 3 Response to Submissions Table, Council Report 3 August 2021

¹⁰² Document 242 – Council’s Part C submission, page 29

UEM Sunrise submitted the land was not currently included within the MEP in the Planning Scheme, was not included in the Gipps Street Local Area Plan (2011) and suggested the SEES proceeded *“on the basis of a mistaken assumption that the C1Z strip is part of the Gipps Street MEP”*.¹⁰³

Council explained that it intentionally included the C1Z strip as part of the MEP. It adopted Mr Szafraniec’s view that it should be included, and submitted that the SEES assessed Hoddle Street as follows:

Land in the Hoddle Street corridor presents an opportunity to accommodate additional employment and residential development with minimal impact on existing lower scale development to the east of the rail line. For sites immediately adjacent to Hoddle Street the amenity issues associated with traffic volumes and noise will need to be taken into consideration. Retail and commercial uses that benefit from the exposure provided by a busy arterial route are likely to be more appropriate than residential uses. (Annual average daily traffic volumes on Hoddle Street were in the order to 35,000 vehicles per day southbound and 40,000 per day northbound in 2015.) Under these circumstances commercial uses are more appropriate than residential for street facing frontages. Given the significance of Hoddle Street as a major arterial road and through route, the future of the existing C2 land along the corridor should be considered only once further strategic planning is undertaken to examine future opportunities and zoning options to achieve both employment and potential some housing outcomes.¹⁰⁴

UEM Sunrise argued that this extract had no application or relevance to the C1Z strip, did not provide any strategic justification for its inclusion in the MEP and that nowhere in the SEES is there any justification. In response to a question from the Panel, Mr McGurn gave evidence that he could not identify anything in the SEES which provided strategic justification for including the C1Z land within the MEP.

UEM Sunrise submitted in terms of realisation of employment floorspace need for Yarra, the C1Z strip is inconsequential based on capacity estimates in the SEES. UEM Sunrise considered its inclusion within the MEP could discourage residential uses.

(v) Discussion

Site amalgamation

The Panel agrees with Council that the SEES refers to intensification of employment land rather than consolidation. It is therefore appropriate to amend proposed Clause 17.01-1L (Economic development) to delete the reference to consolidation in the third strategy under the heading ‘Cremorne and Gipps Street major employment precincts’ as follows:

- Encourage the ~~consolidation and~~ intensification of employment land in Yarra’s major employment precincts.

Cremorne MEP

In partnership with the Victorian Planning Authority and the State government, Council prepared the CPIP in 2020 which provides a:

... roadmap to support appropriate ongoing development of Cremorne, building on its unique attributes and location. It presents a vision for the future precinct and strategic

¹⁰³ Document 223, Panel submission – UEM Sunrise, page 7

¹⁰⁴ Document 125, Council’s Supplementary Part B submission, pp 6-7

directions and targeted actions for delivery by state agencies and council to guide future investment.¹⁰⁵

The Panel agrees with Riseheath that Cremorne has a ‘different’ character which is reflected in the Vision for the CPIP:

Cremorne is a global innovation precinct with a vibrant village feel, new sustainable development, quality public spaces, active transport options, set within narrow streets and historic industrial buildings and workers cottages.¹⁰⁶

The role and key qualities of Cremorne are acknowledged in the proposed MPS, which also recognises some of the key challenges for future development.¹⁰⁷ The Panel agrees with Riseheath that there are policy gaps in the Amendment with respect to built form guidance for Cremorne.

The CPIP does not include built form guidance, however under Direction 4.5 ‘Buildings and development’ the following actions are included:

- Review the current planning policy and controls to better manage development, provide greater planning certainty and address local issues. Funding supported by the VPA.
- If required under the review, introduce new planning controls to the Yarra Planning Scheme, in the first instance as interim measures to manage development pressures. These would provide designers, investors and decision-makers with a consistent framework for future development.
- Update the Cremorne Urban Design Framework to reflect the Cremorne vision statement and provide precinct-wide directions to guide future development and investment. Funding supported by the VPA.

These actions are listed with a short term (1-2 years) timeframe. The Panel accepts Council’s advice that it will begin consultation on the CPIP actions in 2022 and that Council intends to progress more detailed built form analysis for Cremorne. There is no need to make a recommendation for further work but strongly supports progression of the next steps as set out in the CPIP in accordance with stated timeframes.

The Panel agrees with Riseheath that the Clause 74.02 Schedule can be useful to clarify an intention by Council to undertake further strategic work while also acknowledging the schedule cannot be used to influence decision making. However, the Panel accepts that Council is not proposing to use this approach and makes no further comment on the matter.

The Panel understands Riseheath’s concerns in relation to directing mid-rise development generally to Cremorne in the absence of more detailed overlay controls. This issue is discussed in more detail in Chapter 4 of this report and the Panel has recommended modification to one of the strategies in proposed Clause 15.01-2L (Building design) to provide further guidance.

The Amendment addresses the issue of retention of laneways through proposed Clause 15.01-1L (Urban design), by promoting development abutting a laneway that retains the public access function of the laneway and supporting development that re-establishes laneways or creates new laneways. The Panel does not agree that a further strategy is required.

¹⁰⁵ Document 141, Cremorne Place Implementation Plan, page 4

¹⁰⁶ Document 185, Panel submission – Riseheath, page 11

¹⁰⁷ Refer to proposed Clause 02.03-4 (Strategic directions) – Built environment and heritage

C1Z land on the west side of Hoddle Street

The Panel accepts there are references in the SEES to land in the Gipps Street MEP zoned C1Z which permits residential use and development. The C1Z land along Victoria Parade was already included in the “*potential commercial and industrial area*” mapped in existing Clause 21.03 (Vision). The Panel does not agree that references in the SEES provide strategic justification for including the C1Z strip along Hoddle Street in the MEP, and agrees with UEM Sunrise that references could refer to the existing C1Z land as referenced in Clause 21.03. In any case, no reasons were established to expand the precinct.

The Panel agrees that including the C1Z land along Hoddle Street within the MEP could have consequences that have not been appropriately analysed. The Panel does not agree with Mr McGurn that “*nothing turns on whether the UEM land is in the MEP or not*”.¹⁰⁸ There may be any number of consequences for future development on the site as a result of objectives, strategies and local policies within the Planning Scheme which apply to the MEP. It may be appropriate to include this land within the MEP but without any analysis, this cannot be assumed.

The Panel considers it appropriate to remove the C1Z strip along Hoddle Street from the Gipps Street MEP from the Strategic Framework Plan in proposed Clause 02.04.

(vi) Conclusions and recommendations

The Panel concludes:

- The SEES refers to intensification of employment land rather than consolidation and the term consolidation can be removed from the proposed Clause 17.01-1L (Economic development)
- Retention of public laneways is adequately addressed through proposed Clause 15.01-1L (Urban design).
- There is no strategic justification set out in the SEES to include the C1Z strip along Hoddle Street in the Gipps Street MEP and it should be removed.

The Panel recommends:

- 8. Amend the third strategy in proposed Clause 17.01-1L (Employment) under the heading Cremorne and Gipps Street major employment precincts to state:**
 - ***Encourage the intensification of employment land in Yarra’s major employment precincts.***
- 9. Remove the strip of land along Hoddle Street zoned Commercial 1 Zone, between Victoria Parade and Hood Street, Collingwood from the Gipps Street Major Employment Precinct in the Amendment documents.**

Further recommendation

The Panel informally recommends that Council update the SEES to remove the C1Z strip of land along Hoddle Street between Victoria Parade and Hood Street, Collingwood from the Gipps Street MEP through a separate process.

¹⁰⁸ Document 243, Council’s Part C submission, page 35

8 Heritage

8.1 What is proposed?

The Amendment includes new or translated references to heritage in:

- the MPS
- Clause 11.03-1L (Activity centres)
- Clause 15.01-1L (Urban design)
- Clause 15.01-1L (Signs in a Heritage Overlay)
- Clause 15.01-2L (Landmarks)
- Clause 15.03-1L (Heritage)
- Clause 15.03-1L (World Heritage Environs Area)
- the Schedule to Clause 72.04 (Documents incorporated in this planning scheme).

Clause 15.03-1L (Heritage) deals with a wide range of issues under the following headings:

- new development, alterations and additions
- demolition
- residential alterations or additions
- residential infill
- commercial and former industrial heritage places
- commercial heritage places
- former industrial heritage places
- relocation
- restoration and reconstruction
- painting and surface treatments
- trees, landscapes, parks and gardens
- subdivision
- services and equipment
- roof terraces and roof decks
- fences and gates
- archaeological sites.

The Residential Heritage Policy Review and the Industrial Heritage Policy Report are proposed to be included as background documents in the Schedule to Clause 72.08 (Background documents).

The Amendment incorporates the findings of the Residential Heritage Policy Review, proposing to remove the sightline diagrams with a 'depth of two rooms' test in Clause 15.03-1L (Heritage). This test is used to determine the visibility of rear additions to residential properties.

The recommendations in the Industrial Heritage Policy Report have been incorporated into proposed Clause 15.03-1L (Heritage).

Proposed Clause 15.01-1L (Signs in a Heritage Overlay) updates existing policy and splits heritage sign policy from the general sign policy.

Proposed Clause 15.03-1L (World Heritage Environs Area) is a policy neutral translation from the existing policy at Clause 22.14.

Existing Incorporated Document *City of Yarra Database of Heritage Significant Areas* (Heritage Database) is proposed to be updated in relation to definitions of significance of heritage places.

8.2 Background and relevant documents

The 2014 Planning Scheme Review and the heritage related background reports identified a number of issues in the current Planning Scheme regarding heritage policy including duplication between policy and overlay provisions, the lack of guidance on commercial and industrial heritage and the application of a sight-line test.

Key policy sources include:

- Clause 21.05 (Built form)
- Clause 22.02 (Development guidelines for sites subject to the Heritage Overlay)
- Clause 22.14 (Development guidelines for heritage places in the World Heritage Environs Area).

The strategic basis for the proposed policies (insofar as they relate to heritage) is found in the Residential Heritage Policy Review and Industrial Heritage Policy Report.

8.3 The issues

The issues are whether the:

- objectives and strategies in Clause 15.03-1L (Heritage) are appropriate
- objectives and strategies in Clause 15.01-1L (Signs in a Heritage Overlay) are appropriate and should be included within Clause 15.03-1L (Heritage)
- objectives and strategies in Clause 15.03-1L (World Heritage Environs Area) are appropriate
- proposed definitions of significance in the Heritage Database are appropriate.

8.4 Clause 15.03-1L (Heritage)

(i) Evidence and submissions

Many submitters raised heritage issues. Mr Gard'ner noted that approximately 178 submissions raised heritage related issues.

Many submissions raised concerns with respect to intensive development within heritage precincts, such as activity centres. They were concerned inappropriate development would erode the heritage character of these areas and called for increased protection through specific built form controls such as mandatory height limits and setbacks.¹⁰⁹

Other submissions sought:

- greater consistency of character rather than a mix of heritage and new development
- policy to ensure that new development complements existing development
- protection for additional heritage buildings and sites
- clearly written heritage objectives
- illustrated heritage guidelines

¹⁰⁹ For example, Submissions 7, 11, 22, 65, 103, 104, 204, 279, 323 and 405

- re-ordering the strategies in Clause 15.03-1L (Heritage)
- greater prescription in the strategies
- compliance with the Australia ICOMOS Burra Charter principles
- greater protection for the facades of heritage shops
- restoration and protection of verandahs
- retention of historical advertising signs
- retention and adaptation of industrial heritage buildings
- recognition and protection of bluestone laneways
- tree planting appropriate to heritage streetscapes
- stronger controls to prevent facadism
- improvements to documenting and recording heritage places.

A large number of submissions raised additional heritage matters beyond the scope of the Amendment.

Some submissions made detailed recommendations on the form and content of heritage policy.¹¹⁰ These submissions sought:

- a variety of detailed wording changes to elaborate and clarify numerous strategies
- specific reference to the retention and adaptation of non-residential heritage buildings such as institutional and ecclesiastical buildings
- to replace various references to *“Protecting heritage buildings and streetscapes...”* with *“Preserving and enhancing heritage buildings and streetscapes...”*
- requirements to use traditional building materials and methods of construction on facades visible from the street
- redrafting of the demolition strategies
- removal of the strategy that allows for demolition if ‘new evidence’ becomes available to demonstrate that the building is not of heritage significance
- a number of other very detailed changes to strategies.

In contrast, a few submissions (such as Streets Alive Yarra) said that heritage was *“an artificial construct”* that should not be used to prevent development that creates new urban form and improves opportunities for new residents to live in Yarra.

In response to submissions, Council supported modifications to the exhibited versions of a number of heritage related policies, including Clause 15.01-1L (Heritage). These changes generally reflected minor variations to the wording of a variety of strategies and did not change the original intent of the exhibited policy. Of note was the introduction of three objectives to the heritage policy and clarification that the strategy relating to the ‘depth of two rooms’ test should refer to a minimum depth of two rooms. These suggested changes were circulated to all parties in Council’s ‘Panel version’ of the Amendment documents before the commencement of the Hearing.¹¹¹

Mr Gard’ner included a comprehensive analysis of submissions in his evidence statement. He generally agreed with all of the changes circulated by Council before the Hearing. He noted that he provided advice to Council which informed modifications that were suggested by Council.

Mr Gard’ner concluded:

¹¹⁰ Submissions 12, 18, 171, 174, 177, 279, 231, 234, 267, 292, 293, 312, 323, 334, 349, 350, 364, 396, 418, 420

¹¹¹ Documents 16, 17, 18, 37, 45, 47, 49, 51, 52, 54, 56

- Clause 02.01 (Context) accurately describes the heritage character of the City of Yarra
- Clause 02.02 (Vision) appropriately incorporates heritage into the strategic vision for the municipality
- the references to heritage within Clause 02.03 (Strategic directions) would benefit from being strengthened, particularly in relation to activity centres¹¹²
- Clause 11.03-1L (Activity centres) should be amended to provide more consistent references to heritage across the different activity centres and activity centre types¹¹³
- Clause 15.01-1L (Urban design) appropriately addresses development adjoining land subject to the Heritage Overlay
- Clause 15.01-1L (Signs in a Heritage Overlay) provides appropriate guidance on that matter subject to minor changes.

Mr Gard'ner commented that Council's 'Panel version' of Clause 15.03-1L (Heritage) was:

... a well-considered local policy that is consistent with good heritage practice and which takes account of the range of heritage places and precincts found within the municipality. It is my opinion that the supporting documentation prepared in relation to residential heritage, former industrial heritage places provides a sound basis for the development and implementation of the heritage policies. In my view the proposed Heritage policy acknowledges the need for, and provides policy to guide changes to heritage places including alterations and additions, new development and adaptive reuse. I consider that some further amendments to the Heritage policy are warranted to improve clarity and consistency and reduce duplication, as detailed in this statement of evidence.¹¹⁴

In summary, Mr Gard'ner recommended changes to Clause 15.03-1L (Heritage), including:

- removal of duplicated provisions, for instance under the heading 'New development, alterations or additions' materials are identified as a way to be "*...visually recessive against the heritage fabric ...*" and to "*... minimise the visual impact of development...*", which amount to the same policy outcome
- clarifying which headings apply generally across all heritage place types (for example, 'New development, alterations or additions', 'Demolition' or 'Relocation') and which are limited to specific heritage place types (such as 'Commercial and former industrial heritage places', 'Commercial heritage places' or 'Former industrial Heritage places')
- removing broad policy statements such as "*Ensure that adaptation of heritage places is consistent with the principles of good conservation*", noting that the purpose of the heritage policy is to provide guidance on what constitutes good conservation practice
- addressing apparent gaps, for instance specific policy has been provided for 'Residential infill' but these policies are equally relevant for infill development within commercial areas
- combining the guidance on corner sites to a new heading where this policy is equally applicable to residential, commercial or industrial buildings
- adding qualifiers to provisions that refer to tree controls or external paint controls which make it clear that these policies are only considered when the relevant control has been selected in the Heritage Overlay Schedule

¹¹² Details of these recommendations are in Chapter 13.2 of this report

¹¹³ Details of these recommendations are in Chapter 5 of this report

¹¹⁴ Document 86, paragraph 204

- improving the consistency of voice and format, for instance by removing the definitions of ‘culturally significant’ under the heading ‘Trees, landscapes, parks and gardens’
- reviewing some terminology to ensure that the correct verb is used in the context of the Practitioner’s Guide
- deleting the section headed ‘Archaeological sites’ because the protection of historical archaeological sites and deposits is outside the purposes of the PE Act or the Heritage Overlay and is regulated under Part 6 of the *Heritage Act 2017*.

Mr Gard’ner incorporated all of these changes in ‘Appendix VI’ of his evidence statement as a tracked changes version of Clause 15.03-1L.

Mr Gard’ner supported the replacement of the current sight-line test with the new minimum ‘depth of two rooms’ test and stated:

It is my view the change from a sight-line test to a two-room depth of setback will lead to clearer application of the Heritage policy as the effectiveness of the sight-line test depended on the width of the street and topography of the area with wider streets and boulevards potentially leading to different outcomes that would be achieved in typically narrow residential streets. Further, I do not support the articulation of different levels of concealment of development between ‘Contributory’-graded buildings (Figure 2 of existing Clause 22.02- 5.7.1) and ‘Individually Significant’-graded buildings (Figure 3 of existing Clause 22.02-5.7.1). The Yarra Residential Heritage Policy Review removes the policy distinction between ‘Contributory’ and ‘Individually Significant’-graded buildings, and I support this outcome.¹¹⁵

Mr Gard’ner considered that the demolition strategy relating to the partial demolition of individually significant and contributory buildings was “*potentially overly restrictive*” because it requires all six dot points to be met. He noted:

Of particular concern is that the policy suggests that no fabric that contributes to the significance of the place can be demolished, which is potentially at odds with policies that provide for additions beyond a two-room depth. Such development has occurred throughout the municipality and generally in a way that ensures the heritage values of the place are retained, whilst allowing for the removal of some contributory fabric.¹¹⁶

He also noted that varying definitions of the term ‘structurally unsound’ have been debated before VCAT.

In response to questions from the Panel, Mr Gard’ner provided a revised version of the demolition strategy:

Avoid the demolition of any part of an individually significant or contributory building unless all of the following can be demonstrated:

- The fabric does not contribute to the significance of the place.
- The demolition will not adversely affect the significance of the heritage place.
- The partial demolition will contribute to the long-term conservation of the heritage place.
- The area of demolition does not contribute to the significance of the place or is not visible from:
 - The street frontage (other than a laneway, unless the fabric visible from the laneway is identified in the Statement of Significance for the place)
 - The street frontage other than a laneway, unless:

¹¹⁵ Document 86, paragraph 86

¹¹⁶ Document 86, paragraph 71

- the principal façade addresses the laneway; or
- the fabric visible from the laneway is identified in the Significant of Significance.
- A park or public open space immediately adjoining the site.¹¹⁷
- ...

Ms Vines gave evidence that although exhibited policy has improvements on the existing policy in the Planning Scheme, it should be *“rewritten to address key issues which would better protect heritage character”*. Ms Vines explained a number of additional objectives she considered should be included.

Ms Vines said although the proposed strategies were *“detailed and carefully considered”*, they were *“vague about the critical issue of height and include strategies under New Development which are open to interpretation”*.

Mr Lewis gave evidence with respect to Clause 15.03-1L (Heritage), concluding:

- the policy is inconsistent with other relevant planning schemes and contrary to accepted conservation practice
- objectives are incomplete and the State policy objective (15.03-1S) is not adequate
- the strategies should be reordered to begin with strategies for conservation and be better structured
- demolition policies should better cover the retention of significant fabric, especially for fabric on heritage places graded significant when not visible from the public domain
- the building typology approach adopted by Yarra, both in the proposed 15.03-1L and also the current scheme, does not achieve acceptable conservation outcomes
- different policies for residential and non-residential buildings has led to many examples of facadism on non-residential buildings due to the demolition of significant fabric behind building facades
- the policies for commercial and industrial buildings allow highly visible intrusive rear additions
- the ‘depth of two rooms’ test for residential buildings is not always acceptable for residential buildings and sightline objectives should be retained
- definitions are required to prevent misuse of the policy
- reference documents are required, including plain English guidelines to explain the policy
- a complete review of these issues is required before the Amendment should be considered.

In response to submissions and the evidence of Ms Vives and Mr Lewis, Council submitted:

- many of the submissions raised matters that were beyond the scope of the Amendment
- the proposed objectives are sound and appropriate
- it is not necessary or appropriate to replicate objectives in Clause 15.03-1S (Heritage conservation)
- it is not appropriate for policy to be prescriptive
- the ‘minimum depth of two front rooms test’ has been derived from sound research, is easily understood, will provide a more consistent approach than the current policy and is useful in promoting the conservation of the primary roof form and the chimneys

¹¹⁷ Document 113

- vertical sightline tests have limited success in managing the visibility of upper floor additions because the sightline is established through a fixed viewing point but an extension can be seen from more than one fixed point
- the Industrial Heritage Policy Report informed the new policies relating to former industrial places, including specific provisions to encourage the retention and appropriate redevelopment of industrial heritage sites
- heritage work associated with the introduction of DDOs in Yarra's activity centres has provided guidance on commercial heritage policy
- the building typology approach is sound, appropriate and well understood within the City of Yarra
- the proposed policy contains numerous strategies to avoid facadism
- strategies have been modified to make specific reference to the retention of laneways, street furniture, verandahs and canopies
- Clause 15.01-1L (Urban design) expressly addresses laneways in significant detail
- it is appropriate for policy to refer to adaptive reuse because this is an important feature in Yarra and it should be prioritised over demolition
- applications for demolition will always be assessed against the significance of a place and it is relevant to consider if the grading is shown to be mistaken or outdated
- there was no compelling reason to vary the order of the strategies in Clause 15.03-1L
- definitions and illustrated guidelines were not appropriate in policy.

Council submitted that the Heritage policy has been exhaustively scrutinised by many parties and although the resultant policy may not reflect every single change sought by every single submitter, it is properly characterised as affording a high level of recognition and protection for Yarra's heritage fabric.

Council generally agreed with all of Mr Gard'ner's recommendations except for four key issues.

First, it did not agree with Mr Gard'ner that the strategy regarding corner sites in 'Residential alterations or additions' should be transferred to a new heading 'Corner sites' and should apply to all development, not just residential. Council did not agree to creating a new heading called 'Corner sites', but did suggest adding a new strategy under the heading 'Commercial and industrial heritage places' that states:

Retain the visual prominence of both facades of buildings on corner sites (not including laneways).

Second, Council did not agree with Mr Gard'ner the heading 'Residential infill' should be changed to 'Infill development' and the text under this heading modified to refer to all infill development rather than only residential infill development. Council proposed to change the name of the heading to 'Residential infill development'.

Third, Council did not agree with Mr Gard'ner that the strategies dealing with 'Archaeological sites' should be deleted.

Finally, Council did not agree with Mr Gard'ner regarding his modified position with respect to the partial demolition of buildings. Council reiterated its intention that the dot points for partial demolition of heritage buildings are cumulative, but noted that they provide more flexibility and latitude than the criteria for full demolition of heritage buildings.

Council submitted preferred wording in its 'Part C version' Amendment documents.¹¹⁸ In its closing submission, Council submitted that if the Panel was inclined to recommend amendment of the partial demolition strategy generally in line with Mr Gard'ner's evidence then alternative wording could be:

Avoid the demolition of any part of an individually significant or contributory building unless all of the following can be demonstrated:

- The fabric does not contribute to the significance of the place.
- The demolition will not adversely affect the significance of the heritage place.
- The partial demolition will contribute to the long-term conservation of the heritage place.
- The fabric does not contribute to the significance of the place or the area of demolition is not visible from:
 - The street frontage other than a laneway, unless:
 - the principal façade addresses the laneway; or
 - the fabric visible from the laneway is identified in the Statement of Significance.
 - A park or public open space immediately adjoining the site.
- The removal of part of the building allows its three-dimensional form to be retained and does not result in the retention of only the visible facade of the building and demolishing the remainder.
- The replacement building is a high quality design.¹¹⁹

The Panel questioned the use of the word 'require' in several of the strategies in Clause 15.03-1L. Council responded that:

... as a general rule, policy should be used to encourage or promote, rather than require, but submits that given the importance of heritage to Yarra which is emphasised throughout the MPS and local policies, clear and unambiguous direction about appropriate heritage measures and outcomes is desirable.¹²⁰

Council acknowledged that Condition 6 of authorisation for the Amendment by DELWP was:

At Clause 15.03-1L 'Heritage', replace the word 'require' with 'encourage' in 'require all applications for demolition to be accompanied by an application for new development'.

Council submitted that DELWP did not impose a condition of authorisation that the word 'require' be removed or replaced elsewhere in Clause 15.02-1L. Accordingly, Council submitted it was acceptable to retain this term elsewhere in the policy.

Council provided an updated version of Clause 15.03-1L with its preferred changes.

(ii) Discussion

Heritage issues are of keen interest to the local community and many written submissions contained detailed assessments of heritage matters. Although a large number of these submissions related to concerns beyond the scope of this Amendment, they conveyed a strong sense of pride regarding the special heritage character of Yarra. The Panel appreciates and

¹¹⁸ Document 209

¹¹⁹ Document 243, paragraph 258

¹²⁰ Document 125, paragraph 117

understands the passion and enthusiasm for heritage issues demonstrated by the many community groups and individuals who participated in the Amendment process.

Council has responded to many of the issues raised in submissions and evidence with thoughtful and considered modifications to the exhibited planning provisions. This has resulted in greater clarity and consistency to the heritage policies. Although it is not possible to accommodate the concerns of every submitter, the Panel is generally satisfied that the heritage policies have been subject to extensive debate and the strategies have been thoroughly scrutinised. This has been of significant benefit to the Panel and improved the outcome of the Amendment.

Council has based the proposed heritage policies on sound research and is strategically justified. The proposed policies demonstrate an appropriate response to managing complex heritage issues in sensitive locations subject to development pressures. The Panel does not agree with those submitters who considered too much emphasis has been given to protecting the existing heritage character. Council has applied a balanced approach to heritage issues and this is reflected in a comprehensive suite of strategies across multiple policies.

Issues raised relating to heritage and building height and activity centres are addressed in Chapters 4 and 5. The Panel generally agrees with the conclusions and recommendations of Mr Gard'ner and does not support the assessment of Ms Vines or Mr Lewis. In particular, the Panel notes:

- the proposed additional objectives are appropriate and complement the objectives in Clause 15.03-1S (Heritage conservation)
- it is not necessary or appropriate to repeat or duplicate objectives in Clause 15.03-1S in local policy
- the removal of the existing sight-line test and replacement with the 'minimum depth of two rooms' test is appropriate and should result in improved administration and heritage outcomes
- the addition of various strategies regarding industrial and commercial heritage places are sound and appropriate
- the typologies expressed in the policy are acceptable
- the proposed policies do not encourage facadism.

The Panel accepts Council's position with respect to corner sites and infill development. The modifications Council proposes to these provisions are adequate and the changes suggested by Mr Gard'ner are not necessary.

The Panel agrees with Mr Gard'ner that the section dealing with 'Archaeological sites' should be deleted because these matters are not directly relevant to the Planning Scheme. These issues sit within the remit of other legislation and regulation.

The Panel shares the concerns expressed by Mr Gard'ner with respect to the tests for the consideration of partial demolition of heritage buildings. It is acknowledged these tests are policy (not a control) and they provide greater flexibility than for the consideration of the complete demolition of a building. The need to meet all of the dot points in the strategy means that the bar is set high, particularly for contributory buildings.

The Panel supports the approach recommended by Mr Gard'ner because it provides greater flexibility. The alternative wording suggested by Council to implement the intent of Mr Gard'ner's approach is clearer and this is supported.

There was extensive debate from submitters and witnesses about the ‘correct’ order of the strategies in the heritage policy. The Panel accepts there are a variety of possible ways to order the provisions, but considers the order suggested by Council is acceptable. It is open to Council to reconsider the order of the provisions should it wish to do so as part of the finalisation of the Amendment.

The Panel does not agree it is appropriate to commence strategies with the word ‘require’. The Practitioner’s Guide makes it clear that strategies should not include the word ‘require’ and the strategies should be redrafted to include more appropriate terms.

(iii) Conclusion and recommendations

The Panel concludes:

- The proposed objectives and strategies in Clause 15.03-1L (Heritage) in Council’s ‘Part C version’ of Amendment documents are generally appropriate subject to:
 - modifying the strategy regarding partial demolition of a heritage building to provide for greater flexibility
 - deleting the section ‘Archaeological sites’
 - changing all strategies commencing with the word ‘require’ to an alternative term consistent with the Practitioner’s Guide.

The Panel recommends:

10. Amend Clause 15-03-1L (Heritage) in accordance with the Panel preferred version in Appendix E.

8.5 Clause 15.01-1L (Signs in a Heritage Overlay)

(i) Evidence and submissions

Council submitted Clause 15.01-1L (Signs in a Heritage Overlay) applies to all permit applications for signs in a Heritage Overlay, not only signs which have heritage significance.

Signs of individual heritage significance are protected by the Heritage Overlay (for example Skipping Girl HO353) and identified in the landmarks policy.

Signs attached to buildings in a Heritage Overlay are not specifically protected unless external paint controls apply, as specified in the Schedule to Clause 43.01-1.

Mr Gard’ner gave evidence that the proposed provisions were appropriate and would help discourage inappropriate signage in the Heritage Overlay. He supported a minor modification to the objective so that it states:

To promote signs that ~~protect~~ conserve and enhance the significance of a heritage place.

Mr Gard’ner said this would provide greater consistency with the purpose of the Heritage Overlay and encompass not only a consideration of protecting or managing existing heritage signs, but also encouraging new signs that are appropriate for their heritage context.

Mr Gard’ner noted the policy guidelines refer to “*Discouraging the following signs in heritage areas*”. He said this could be interpreted as excluding signs within an individual heritage place (or building), and recommended it state:

Discouraging the following signs in heritage places and areas:

The YPC proposed an objective:

To conserve and enhance heritage places by ensuring that signs respect their heritage significance

Council's concern with this objective was that the policy applies to new signs in heritage areas, not to signs which have heritage significance. It said the objective could be read to apply only to signs which themselves have heritage significance and creates ambiguity about the intended application of the policy.

Ms Ancell's evidence statement did not include a detailed assessment of heritage policy, however she said that Clause 15.01-1L (Signs in a Heritage Overlay) should be moved to Clause 15.03-1L (Heritage). Ms Ancell noted the Practitioner's Guide states:

Signs in Heritage areas: if a sign policy solely relates to the appearance of signs within a heritage area, it can sit with Clause 15.03-1 Heritage conservation. If a policy broadly relates to the urban design aspects of a sign and has a component that relates to heritage, the policy can remain under Clause 15.01-1 Urban design.¹²¹

Council did not agree with Ms Ancell that Clause 15.01-1L (Signs in a Heritage Overlay) should be relocated to Clause 15.03-1L (Heritage). It said the location of the policy had been prepared in consultation with DELWP officers.

(ii) Discussion

The Panel generally accepts that the policy regarding Signs in a Heritage Overlay is appropriate. It accepts that the policy applies to all permit applications for signs in a Heritage Overlay in addition to policies in Clause 15.01-1L (Signs).

The Panel agrees with Mr Gard'ner and Council that the objective should be amended to refer to signs that 'conserve and enhance' the significance of the heritage place. It does not support the objective proposed by the YPC and agrees with Council that the wording could be misinterpreted.

The Panel agrees in principle with Mr Gard'ner that the wording of the policy guidelines should relate to signs within a heritage precinct (an area) and an individual building. In this regard, the Panel considers that amending the word 'areas' to 'places' would cover both scenarios. A heritage place could include a site, area, building, group of buildings, structure, or other place of natural or cultural significance and its associated land.

The Panel agrees with Ms Ancell that the objective and strategies in exhibited Clause 15.01-1L (Signs in a Heritage Overlay) should be relocated to within Clause 15.03-1L (Heritage). This is consistent with the approach expressed in the Practitioner's Guide.

(iii) Conclusions and recommendations

The Panel concludes:

- The proposed objectives and strategies in Clause 15.01-1L (Signs in a Heritage Overlay) as exhibited are generally appropriate subject to:
 - modifying the objective *"to promote signs that conserve and enhance the significance of a heritage place"*

¹²¹ A Practitioner's Guide to Victorian Planning Schemes, page 72

- modifying the policy guideline to “*Discouraging the following signs in heritage places:*
...”
- The objective and strategies in Clause 15.01-1L (Signs in a Heritage Overlay) should be relocated to within Clause 15.03-1L (Heritage).

The Panel recommends:

11. Delete Clause 15.01-1L (Signs in a Heritage Overlay) and relocate the provisions to within Clause 15.03-1L (Heritage).

12. Amend Clause 15-03-1L (Heritage) in accordance with the Panel preferred version in Appendix E.

8.6 Clause 15.03-1L (World Heritage Environs Area)

(i) Evidence and submissions

The World Heritage Environs Area (WHEA) surrounds the World Heritage listed Royal Exhibition Building and Carlton Gardens, Carlton. The WHEA, which includes land within South Fitzroy, acts as a ‘buffer zone’ for the World Heritage property and provides a setting and context of significant historic character for the World Heritage property.

The FREBCG submitted the Amendment should include stricter guidelines to manage future development within the WHEA ‘buffer zone’, particularly within the South Fitzroy area.

Submission 323 said that the boundary of the WHEA should be extended.

Council noted the:

- management of the Royal Exhibition Building and Carlton Gardens is guided by the *World Heritage Environs Area Management Plan* and includes the *World Heritage Environs Area Strategy Plan*
- the WHEA Management Plan and Strategy Plan are statutory documents under the *Heritage Act 2017*
- Heritage Victoria is currently undertaking a review of the WHEA Management Plan and its component documents (including the Strategy Plan)
- the draft WHEA Strategy Plan, together with draft planning scheme controls for the City of Melbourne and the City of Yarra were the subject of public exhibition closing on 24 September 2021
- the draft WHEA Strategy Plan recommends:
 - proposed amendments to the City of Melbourne and the City of Yarra planning schemes, including the introduction of a new DDO for the City of Yarra to apply to the entire WHEA including:
 - appropriate design objectives and decision guidelines which function to protect the world heritage values and prominence of the Royal Exhibition Building and Carlton Gardens
 - height controls and built form guidance
 - removing the distinction between areas of greater and lesser sensitivity in the WHEA
 - implementing minor expansions of the WHEA boundary to the west and south-west in the City of Melbourne and to the east in the City of Yarra
 - amending policy to discourage specific types of signage within the WHEA

- making the Executive Director, Heritage Victoria, a determining Referral Authority for certain scales of development in the WHEA.

The Panel was advised during the Hearing that a decision on these matters had not been made.

Council submitted that the Minister for Planning has the role of planning authority for the WHEA in relation to world heritage values by virtue of the *Heritage Act 2017*.

(ii) Discussion

The Panel accepts that the proposed Clause 15.03-1L (World Heritage Environs Area) is a policy neutral translation of existing policy in the Planning Scheme. Council provided extensive information to the Panel that explained the administration of the WHEA, including the current process to review the WHEA Management Plan and Strategy Plan.

There is a separate process to the Amendment that is considering the future management and planning controls for the WHEA and it would be inappropriate for the Panel to make any recommendations regarding this precinct. Any changes to the exhibited Clause 15.03-1L (World Heritage Environs Area) should come from the separate process currently underway.

(iii) Conclusions

The Panel concludes:

- Clause 15.03.1L (World Heritage Environs Area) is a policy neutral translation of Clause 22.14 in the Planning Scheme.
- It would be inappropriate to modify the exhibited Clause 15.03-1L (World Heritage Environs Area) through the Amendment when a separate process is underway that is considering a detailed review of broader issues associated with the precinct.

8.7 City of Yarra Database of Heritage Significant Areas

(i) Background

Definitions of the significance of heritage places are currently included in Clause 22.02-3 and the Heritage Database, which is an Incorporated Document in the Planning Scheme. In accordance with accepted planning policy drafting guidance, definitions of significance are not proposed in Clause 15.03-1L. The definitions in the Heritage Database are proposed to be modified as part of the Amendment.

The current and exhibited Heritage Database includes the definitions shown in Table 8.

Table 8 Current and exhibited definitions of significance

Significance	Current Heritage Database	Exhibited Heritage Database
Unknown	Insufficient data to allow an assessment from the public domain	Insufficient data to allow an assessment from the public domain
Not Contributory	Not contributory to identified cultural values of Heritage Overlay area as stated in the Statement of Significance	The place does not contribute to the heritage precinct or building

Significance	Current Heritage Database	Exhibited Heritage Database
Contributory	Contributory to identified cultural values of Heritage Overlay areas as stated in the Statement of Significance	A place or part of a place that contributes to the heritage significance of a precinct. It could include: a building or group of buildings, a landscape, paving and/or parts of a building such as chimneys, verandahs, wall openings and rooflines
Individually Significant	Aesthetically, historically, scientifically, and/or socially significant at the local level and contributory or complementary to the Heritage Overlay area	The place is a heritage place in its own right. Where an individually significant place is also part of a broader heritage precinct, the individually significant place is also contributory to the broader precinct
Victorian Heritage Register	On the Victorian Heritage Register as aesthetically, historically, scientifically, and/or social significant at the State level and contributory or complementary to the Heritage Overlay area	On the Victorian Heritage Register as aesthetically, historically, scientifically, and/or social significant at the State level and contributory or complementary to the Heritage Overlay area

(ii) Evidence and submissions

The 3068 Group identified a number of issues regarding the Heritage Database, including:

- inconsistent identification of address details
- data should include title details and correlate to maps and Statements of Significance of heritage properties
- changes to the Heritage Database should be tracked for future reference
- the Heritage Database should be available in a format that enables easier use and search capabilities
- it is not clear that the existing definitions are problematic
- the definitions should be included in policy guidelines
- the change to the meaning of Individually Significant removes reference to the criteria used to assess the place (aesthetically, historically, scientifically, and/or socially significant at the local level)
- the term 'Unknown' should be changed to 'Not researched- evaluate later' (or alternatively complete the research on these places and delete the need for this category).

Mr Gard'ner gave evidence that it was appropriate for the definitions of heritage significance to be contained within the Heritage Database and recommended amendments to the definitions to improve clarity and accuracy. He said:

- a change from 'Unknown' to 'Not Assessed' would be appropriate as this makes it clear that inadequate information exists to enable an assessment to be made as to the relative significance of the place
- the current definition of 'Not Contributory' is preferred instead of the exhibited version
- the exhibited definition of 'Contributory' is unhelpful as it discusses architectural elements that may contribute to the significance of individual buildings, rather than limiting itself to defining what a contributory building or site within a heritage area means

- the current definition of 'Contributory' provides a clearer and more concise definition than the exhibited version
- the exhibited definition of 'Individually Significant' is clearer, however he preferred a revised definition
- the definitions of a place on the Victorian Heritage Register in both the existing and proposed versions of the Heritage Database do not strictly relate to the values identified under the definition of 'cultural heritage significance' at section 3 of the *Heritage Act 2017*
- the definition of a place on the Victorian Heritage Register should be amended to accurately reflect the intent and wording of the *Heritage Act 2017*.

Mr Gard'ner recommended the definitions of significance as shown in Table 9.

Table 9 Definitions of significance recommended by Mr Gard'ner

Significance	Definition
Not Assessed	Insufficient data to allow an assessment from the public domain
Not Contributory	Not contributory to the identified cultural values of the heritage overlay area as stated in the Statement of Significance
Contributory	Contributory to the identified cultural values of the heritage overlay areas as stated in the Statement of Significance
Individually Significant	A heritage place in its own right. Where an individually significant place is also part of a broader heritage precinct, the individually significant place may also be contributory to the broader precinct ¹²²
Victorian Heritage Register	Included in the Victorian Heritage Register as aesthetically, archaeologically, architecturally, culturally, historically, scientifically, and/or socially significant at the State level

Council agreed with the recommendations of Mr Gard'ner except that:

- it did not agree the term 'Unknown' should be changed
- the definition of 'Individually Significant' should remain as in Mr Gard'ner's evidence statement (and as exhibited):

A heritage place in its own right. Where an individually significant place is also part of a broader heritage precinct, the individually significant place is also contributory to the broader precinct

Council's preferred version of the definitions was reflected in Document 209, presented in its 'Part C version' of Amendment documents.

Council explained that the exhibited version of the Heritage Database was called *City of Yarra Review of Heritage Overlay Areas 2007, Appendix 8, Revised September 2019*. The Explanatory Report accompanying the Amendment noted the name of the document would be changed by a separate Planning Scheme Amendment (C245yara) to *City of Yarra Database of Heritage Significant Areas*. Council advised that Amendment C245yara had been approved and so the name of the document should be amended to reflect the current name in the Planning Scheme.

¹²² Revised definition of Individually Significant by Mr Gard'ner in Document 111

(iii) Discussion

The Panel accepts it is appropriate to include definitions of heritage significance in an Incorporated Document. The definitions recommended by Mr Gard'ner are generally supported and provide a clear and consistent approach to defining the terms. The Panel notes this is a blend of essentially existing and new definitions.

There is not a compelling need to change the term 'Unknown' to 'Not Assessed'. The Panel considers that the definition of the term adequately explains the meaning of 'Unknown' without changing the name of the term. If Council was of a mind to change the name of the term in the definition it would also need to update the term wherever it occurs in the inventory.

The Panel supports the revised definition of 'Individually Significant' presented by Mr Gard'ner during the Hearing.¹²³ Where an individually significant place is also part of a broader heritage precinct, the individually significant place may also be contributory to the broader precinct, although this may not necessarily be so in all cases. For this reason, the Panel prefers Mr Gard'ner's more nuanced wording over the original text in his evidence statement.

The various other issues raised by The 3068 Group are acknowledged but they go beyond the scope of this Amendment.

As the name of the exhibited Incorporated Document changed by approved Amendment C245, it is necessary to modify the name of the document to *City of Yarra Database of Heritage Significant Areas*.

(iv) Conclusions and recommendations

The Panel concludes:

- It is appropriate to include definitions of the heritage significance of places in an Incorporated Document.
- The name of the Incorporated Document should be modified to *City of Yarra Database of Heritage Significant Areas, July 2021* to reflect the current name in the Planning Scheme
- Consistent with Mr Gard'ner's evidence:
 - The exhibited definition of 'Unknown' is acceptable.
 - The exhibited definitions of 'Not Contributory' and 'Contributory' are not appropriate and the current definitions should apply subject to some minor changes.
 - The current and exhibited definitions of 'Individually Significant' and 'Victorian Heritage Register' are not appropriate and should be modified.

The Panel recommends:

13. Amend the Schedule to Clause 72.04 (Documents incorporated in this planning scheme) to update the name of *City of Yarra Review of Heritage Overlay Areas 2007 Appendix 8, Revised September 2019* to *City of Yarra Database of Heritage Significant Areas, July 2021*.

14. Amend the following definitions of significance in the Incorporated Document *City of Yarra Database of Heritage Significant Areas, July 2021* to state:

¹²³ Document 111

- a) **Not Contributory:** Not contributory to the identified cultural values of the heritage overlay area as stated in the Statement of Significance.
- b) **Contributory:** Contributory to the identified cultural values of the heritage overlay areas as stated in the Statement of Significance.
- c) **Individually Significant:** A heritage place in its own right. Where an individually significant place is also part of a broader heritage precinct, the individually significant place may also be contributory to the broader precinct.
- d) **Victorian Heritage Register:** Included in the Victorian Heritage Register as aesthetically, archaeologically, architecturally, culturally, historically, scientifically, and/or socially significant at the State level.

9 Landmarks

9.1 What is proposed?

As exhibited Clause 15.01-2L (Landmarks) includes:

- an objective to *“Maintain the visual prominence of and protect primary views to Yarra’s valued landmarks”*
- four strategies, including:
 - Preserve primary views to landmarks as identified in Table 1.
 - Site, scale and set back new development to avoid encroachment upon views to the identified architectural elements of landmarks.
 - Provide adequate setback and building separation to maintain clear sky between the identified architectural elements of the landmark and new development.
 - Minimise light spill from new development that would reduce the visual prominence of identified illuminated landmark signs at night time.
- policy guidelines including:
 - Landmarks and Views Assessment
 - Table 1 - Landmark primary viewpoints and architectural significant elements.

The Landmarks and Views Assessment is proposed to be included in the new Schedule to Clause 72.08 (Background documents).

Table 1 consists of three columns relating to 15 identified landmarks:

- Column 1 lists the landmark’s name and address
- Column 2 lists the ‘primary views’ to the landmark
- Column 3 lists the ‘architectural significant elements’ of the landmark.

9.2 Background and relevant documents

Existing Clause 22.03 (Landmarks and tall structures) includes objectives and policies relating to 16 identified landmark buildings and signs. Only three of the identified landmarks (St Lukes, St Patricks Cathedral and the Royal Exhibition Building) include a description of what is to be protected and the viewpoint.

Current policy states that new buildings *“within the vicinity”* of the other identified buildings *“should be designed to ensure the landmarks remain as the principal built reference”*. The policy states that *“development should protect views to the [identified] landmark signs”*.

Council engaged Ethos Urban to prepare the Landmarks Policy Review. This report reviewed Clause 22.03 and VCAT decisions regarding the application of the current policy. It identified several weaknesses in the policy including a need to specify the location of views to landmarks and defining the significant features of the landmarks.

The Landmarks Policy Review:

- documented and identified the characteristics and significance of each landmark
- defined the important view lines towards each landmark and the architectural elements of each landmark that make the most significant contribution to each landmark

- provided recommendations that could be included in a local planning policy to protect the landmarks' characteristics, application requirements and decision guidelines.¹²⁴

The Landmarks Policy Review noted a distinction between 'primary views' and 'secondary views':

Primary views are those in which the landmark is the most visually prominent within its setting and where the best appreciation of the landmark within its setting can be gained. Primary views are the first clear view towards the key elements of the landmark and the most important to retain.

Secondary views are the additional reference points for the landmark that also provide good viewing opportunities. These views are encouraged to be retained where possible. Secondary views are generally outside of main road intersections and open spaces.¹²⁵

...

While both primary and secondary views were identified in relation to each landmark, only the primary views are considered to be worthy of planning scheme protection and management at this point. The primary views provide the most identifiable and prominent views of the landmarks, while the secondary views are less evident and potentially more open to interpretation. The primary views are however established and well defensible.¹²⁶

The recommendations relating to each landmark are contained in the Landmarks and Views Assessment. For each identified landmark, the report includes:

- a description of the site and the setting
- identification of the relevant heritage control and heritage significance of the place
- a description of the significance of the landmark
- relevant policy and controls in the Planning Scheme
- a description of primary views and secondary views to the landmark
- management issues
- other references.

The Landmarks Policy Review is not proposed to be included as a background document in the Clause 72.08 Schedule but was exhibited by Council as a supporting document to the Amendment.

9.3 The issues

The issues are whether:

- there is a sound strategic basis for the proposed new policy at Clause 15.01-2L (Landmarks)
- the proposed strategies are appropriate
- proposed landmarks and nominated views are appropriate
- secondary views should be included
- additional landmarks should be included
- the Landmarks and Views Assessment should be a policy guideline and/or a background document.

¹²⁴ The recommendations related to the old format for local planning policies (pre VC148)

¹²⁵ Landmarks Policy Review, page 22

¹²⁶ Landmarks Policy Review, page 26

9.4 Evidence and submissions

Council submitted that the Landmarks Policy Review and Landmarks and Views Assessment provide the strategic basis for the revised landmarks policy. It said the list of landmarks identified in Clause 15.01-2L (Landmarks) is a direct translation of the landmarks included in the existing policy at Clause 22.03, with the exception of the Porsche sign in Victoria Parade, Collingwood which had been deleted because it no longer exists.

Council said the new policy has been strengthened with additional content to maintain the visual prominence of and protect primary views to Yarra's valued landmarks. Specifically, the policy identifies primary views and the architecturally significant elements of each landmark.

Ms Ancell supported Clause 15.01-2L (Landmarks) but suggested the primary views should be cross referenced in the DDOs.

Ms Hodyl gave urban design evidence for Council. Her evidence statement focussed entirely on the proposed landmarks policy. Ms Hodyl said:

The revised approach for managing the protection of views to landmarks in the City of Yarra is strongly supported. I consider that the work undertaken within the background reports provide a good foundation for the policy. In particular, they result in:

- Clear objectives and strategies in the policy that can effectively manage the impact of new development on viewlines to landmarks
- Clarity on the architectural features of the landmarks that need to be protected in viewlines
- Inclusion of specific locations from which views will be assessed
- Establishment of a framework of primary and secondary viewing location.¹²⁷

Although supportive the approach of Ethos Urban, Ms Hodyl put forward an alternative approach with different visibility criteria and view classifications. She suggested a number of changes, including:

- changing the name of the policy from 'Landmarks' to 'Skyline Landmarks'
- reference to primary and secondary views in Clause 15.01-2L (Landmarks)
- amending several of the proposed primary view locations in Table 1 including:
 - St Lukes Church – deleting the second view 'Northeast corner of intersection of Scotchmer Street and St Georges Road' because the view is obscured
 - Richmond Town Hall – deleting the second view 'Southeast corner of intersection of Burnley Street and Bridge Road' because the view is obscured
 - Fitzroy Town Hall – amending the third view to further west on Moor Street, outside the Perseverance Hotel because the view is obscured
 - Shot Tower – amending the first view to the intersection of Alexandra Parade and Smith Street because the view is better
- elevating several of the secondary views in the Landmarks and Views Assessment to primary views
- consequential modifications to the objective and strategies to include secondary views
- corrections of multiple errors in the Landmarks and Views Assessment Report with respect to incorrect mapping of view locations.

¹²⁷ Ms Hodyl evidence statement, Document 87, page 46

Ms Hodyl considered there should be a series of application requirements for a variety of different application types.

In response to questions from the Panel, Ms Hodyl said she was not aware that Ethos Urban had specifically noted that secondary views should not be included in the Planning Scheme for protection.

Many submissions stated that the list of identified landmarks was insufficient and additional landmarks should be included. For example:

- the FREBCG said all landmarks in Yarra should be identified and sight lines protected
- Save Queens Parade (Submission 196) said there should be a register of landmarks that should include additional places such as the Pinnacle in St Georges Road
- the AFADA said there needs to recognition of natural landmarks such as the tree lined vista in Park Avenue, Alphington, not just tall structures
- Mr Nott (Submission 234) said additional landmarks should be included such as the Yorkshire Brewery in Collingwood, the Former Wesleyan Methodist Church in Clifton Hill and the Former London Chartered Bank of Australia in North Fitzroy
- Ms Pelham-Thorman said the list of 16 landmarks was tokenistic
- the CHS said the landmarks policy should not be limited to the identified landmarks in Clause 15.01-2L (Landmarks), it should include secondary views and distant views, and Column 3 in Table 1 should specify the top two-thirds of the shot tower
- Ms Hunt said additional primary views should be added including from Studley Park Road in Kew to the Shot Tower and the operation of Table 1 was ambiguous and it could be interpreted that Column 2 and Column 3 operate independently
- Ms Jasen said that the landmark policy does not protect the landmark, only the views to the landmark
- the YPC raised concerns about the encroachment of buildings behind existing landmarks.

Ms Vines said although the Landmarks Policy Review provided the general policy framework for landmark protection, more localised landmarks need to be identified and protected by policies, particularly corner buildings in streetscapes. She said this local analysis and identification was successfully achieved in DDO16 (Queens Parade, North Fitzroy) and this should serve as a model for localised landmark identification and protection in other activity centres.

Bridgeworth Management Pty Ltd (Submission 174) owns land at 54-56 Bridge Road, Richmond and objected to the policy, with specific reference to the Pelaco sign and the impacts preservation of this view corridor along Bridge Road will have on its property. The submission stated the primary viewpoints are not justified, nor tested and that view protection should be provided through a DDO, not a local policy. It had particular concerns regarding the first and second views in Table 1.

Besen Gertrude Pty Ltd (Submission 418) owns land at 1-9 Gertrude Street, Fitzroy and generally supported the proposed policy but sought clarification regarding the interpretation of the third strategy with respect to the meaning of an 'adequate' setback to maintain 'clear sky'.

In response to submissions and questions from the Panel, Council submitted:

- the identification of landmarks is consistent with the existing landmarks in Clause 22.03 and the Amendment does not seek to add any new landmarks
- Clause 15.01-2L (Landmarks) does not and is not intended to apply to all landmarks in Yarra but only applies to the landmarks identified in Table 1

- new landmarks may be considered as part of a future process, but Council does not have any immediate plans to consider new landmarks
- the identification of improved views from revised locations, additional views, elevation of secondary views to primary views and changes to the architectural elements of a building to be protected (such as to the Shot Tower) would need to be part of a future Planning Scheme amendment and require public notification
- *“the policy cannot require assessment of views outside of the municipality such as those proposed by Ms Hunt from the east side of the Yarra River in Boroondara, as Council has no statutory authority to regulate protection of those views”¹²⁸*
- it does not agree with Ms Hodyl that the policy should be renamed ‘Skyline Landmarks’ as not all the identified landmarks are skyline landmarks (for example the Skipping Girl sign) and future work will not be restricted to skyline landmarks
- it does not agree with Ms Hodyl that secondary views should be identified or protected in Clause 15.01-2L (Landmarks) and these views have not been exhibited as part of this Amendment
- views to the drum, dome, lantern and flagpole of the Royal Exhibition Building were included in existing Clause 22.03 by Amendment C118 introduced by the Minister for Planning to give effect to the approved World Heritage Strategy Plan for the WHEA plan and the proposed policy is a neutral translation
- the third strategy in Clause 15.01-2L (Landmarks) adequately addresses the concerns of the YPC
- Table 1 should be read as a sequential document in the way that tables are commonly interpreted and the intention is to maintain the visual prominence of landmarks (Column 1 of the Table) and protect primary views (Column 2 in the Table) to those landmarks having regard to views of the architecturally significant elements (Column 3 of the Table).

Council proposed the following changes to Table 1:

- St Lukes Church - deletion of the second view ‘Northeast corner of intersection of Scotchmer Street and St George’s Road’ in accordance with the evidence of Ms Hodyl
- Former Dimmey’s Store – correction to the description the second view from ‘Northeast corner of Stewart and Swan Streets Intersection’ to ‘Northwest corner of Stewart and Swan Streets Intersection’ to accurately reflect the location expressed in the Landmarks and Views Assessment
- Skipping Girl Sign – correction to the description of the second view from ‘Entry to City of Yarra from the east (Victoria Street footpath, south side)’ to ‘Entry to City of Yarra from the east (Victoria Street footpath, south side)’.

In response to questions from the Panel, Council submitted that Table 1 should be moved to sit within the ‘Strategies’ section of the policy because the strategies refer to Table 1.

Ms Hodyl highlighted that the Landmarks and Views Assessment contains numerous errors and inconsistencies between the location of primary views in the maps and the corresponding photographs. She provided information regarding secondary views (which are not referred to in Clause 15.03-1L) and other information which is out of date.

¹²⁸ Document 125, paragraph 102 (d)

Council acknowledged that reference to the Landmarks and Views Assessment as a policy guideline in Clause 15.01-2L (Landmarks) will create confusion to users of the Planning Scheme, stating the errors “*do not necessarily impugn the substantive content and recommendations of the document*”¹²⁹, but do create confusion and inconsistency.

In response to this issue, Council proposed to prepare a new simplified policy guidelines document to be included in Clause 15.01-2L (Landmarks). It said the new document would provide no new material from that already exhibited or included in the evidence before the Panel but would correct mistakes and ensure that the identified landmarks, the location of the views and the important elements of the landmark to be protected are clearly set out.

Council did not provide a copy of the new version of the policy guideline document, but outlined that it would include:

- a photo of the landmark identifying the architectural significant elements noted in Column 3, Table 1 of the policy
- a map showing the location of primary views identified in Column 2, Table 1 of the policy (with corrections as appropriate)
- a photo from each primary view to the relevant landmark
- no new landmarks
- no secondary views.¹³⁰

Council said the Landmarks and Views Assessment could remain a background document to the Scheme (uncorrected) as it has informed the assessment of views and architectural elements to be protected. Alternatively, it could be removed as a background document to avoid any confusion with the correct information contained in the new policy guidelines document.

Council submitted:

To the extent that the Panel considers inconsistencies between the new Policy Guideline and the original background document to present an insurmountable problem, the background document could itself be removed and replaced with the new Policy Guideline itself.¹³¹

Council noted that there were two exhibited versions of the Landmarks and Views Assessment. It said a version dated October 2019 was listed on Council’s website during exhibition and two versions of the document were listed on DELWP’s website (the October 2019 version and a November 2019 version). Council said the differences between versions “*are minor in nature and do not raise any significant implications*”.

Council submitted:

... the exhibited and Panel versions of Clause 15.01-2L refer to the north-east corner of the intersection of Stewart and Swan Streets, inconsistent with the image (which is taken from the north-west corner) but not the description in the October 2019 version of the Ethos Urban Assessment and inconsistent with the image shown by Ms Hodyl in her evidence (which is also taken from the north west corner).¹³²

¹²⁹ Document 125, paragraph 100

¹³⁰ Document 252

¹³¹ Document 125, paragraph 101

¹³² Document 125, paragraph 106

9.5 Discussion

The Panel accepts that the proposed policy has been prepared to address identified weaknesses in existing policy. The proposed policy improves clarity by defining relevant views and the significant elements in the view to the identified landmarks. The strategic work that underpins the policy has generally been accepted by peer review as sound and acceptable.

Ms Hodyl thought the policy could go further than what is proposed but she did not have any fundamental issue with the objective, strategies, the identified architecturally significant elements and nearly all of the identified views.

The Panel accepts that the aim of the policy is to protect views to the identified landmarks. It is not the purpose of the policy to protect the landmark itself - that is the purpose of other policies and controls in the Planning Scheme.

The Panel agrees with Council that the additional views and landmarks proposed by submitters and Ms Hodyl are not appropriate to be included in the Amendment. The inclusion of any secondary views or other landmarks should be subject to more detailed assessment and consultation and considered as part of a separate process. The Landmarks Policy Review specifically states that the secondary views identified in that report were not appropriate for protection in the Planning Scheme.

Any changes to the identified architecturally significant elements should also be subject to a separate process.

The Panel sees no compelling reason to change the name of the policy as suggested by Ms Hodyl. Her recommendations to include application requirements is not a matter for local policy as the new format for policies does not entertain inclusion of application requirements.

The Panel agrees with Council that the strategies are generally acceptable except the second and third objective should be modified to state:

Site, scale and setback new development to avoid encroachment upon views to the identified ~~architectural~~ architecturally significant elements of landmarks in Table 1.

Provide adequate setback and building separation to maintain clear sky between the identified ~~architectural~~ architecturally significant elements of the landmark in Table 1 and new development.

This will link the strategy directly to the elements listed in Column 3 in Table 1 and provide greater consistency. For additional consistency, the heading in Column 3 should refer to 'Architecturally Significant elements'.

The Panel agrees with Council the operation of Table 1 is clear and it is appropriate to move it within the 'Strategies' section of the policy.

Ms Hodyl generally agreed with all of the proposed primary views in Table 1 except four views. With respect to each of these views:

- Council agreed to delete the second view to St Lukes Church and the Panel supports this change
- the Panel inspected the disputed views for Richmond Town Hall and the Shot Tower and saw no reason to amend the views as suggested by Ms Hodyl
- the Panel agrees with Ms Hodyl that the third view to the Fitzroy Town Hall should be amended and considers that the view should be changed to refer to the 'Northwest corner of the intersection of Kent Street and Moor Street'.

The Panel accepts the changes suggested by Council with respect to:

- Former Dimmey's Store— modify the second view in Column 2 to state 'Northwest corner of Stewart and Swan Streets Intersection'
- Skipping Girl – modify the second view in Column 2 to state 'Entry to City of Yarra from the east (Victoria Street footpath, south side)'.

Regarding the suggestion of Ms Hunt that views to the Shot Tower should also include views from outside the City of Yarra, Council stated *"the policy cannot require assessment of views outside of the municipality ... as Council has no statutory authority to regulate protection of those views"*. In this context, the Panel notes that the first and second views to the Pelaco sign and the view to the Nylex Sign are both located within the City of Melbourne.

Consistent with Council's stated position, the Panel considers that these views should be deleted from Table 1. As this is the only identified view to the Nylex Sign, the sign should be deleted from Table 1. In accordance with this approach, if Council seeks to retain the Nylex Sign in Table 1 then it should be subject to a separate Planning Scheme amendment following further analysis of an appropriate viewing location within the City of Yarra.

The Panel makes no definitive finding with respect to Council's statement regarding its lack of authority to regulate protection of views from outside its municipal boundary. It has simply applied an approach consistent with Council's own statement to these proposed viewpoints that are outside the City of Yarra.

The Panel notes that there are also two landmarks that are located in the City of Melbourne (St Patricks Cathedral and the Royal Exhibition Building) but these have viewpoints within the City of Yarra. No submissions were made with respect to these landmarks being outside of Yarra and whether there is a material difference in circumstance regarding landmarks (compared to viewpoints) that are outside a municipal boundary. The Panel draws no conclusions on this matter and does not recommend any changes to these two landmarks.

The Panel recognises that views to and from landmarks are not bound by municipal boundaries and. Submitters considered some views to landmarks from beyond the Council area should be addressed through a regional approach to landmarks policy. The Panel considers there may be merit in this approach, however it is outside the scope of the Amendment.

The extensive errors in the Landmarks and Views Assessment are most frustrating and it is unfortunate they were discovered so late in the planning process. The Panel agrees with Council that although the errors do not undermine the overall strategic basis for the Amendment, they have the potential to cause substantial confusion if the Landmarks and Views Assessment report is included as a policy guideline.

The Panel has considered a wide range of options to deal with this issue, including those presented by Council. It is hesitant to endorse the inclusion of a new policy guideline document that has not been prepared and that all parties (and the Panel) have not seen. After reviewing the outline of Council's proposed new version of the policy guideline document¹³³, the Panel considers there is little utility in such a document. A policy guideline of this type appears to replicate the content of Table 1 in photographs and plans and does not materially assist in the implementation of the

¹³³ Document 252

policy. For the same reasons, there appears to be little value in referring to such a document as a background document in the Clause 72.08 Schedule.

The Panel does not support the inclusion of the Landmarks and Views Assessment as a Background Document because, although it has provided the basis for the landmarks policy, there are too many errors and inconsistencies and it includes information such as references to secondary views which has the potential to cause confusion and misunderstanding. The Panel notes the confusion resulting from the errors is compounded by the fact that two versions of the Landmarks and Views Assessment were exhibited with the Amendment.

9.6 Conclusions and recommendations

The Panel concludes:

- There is generally a sound strategic basis for the proposed new policy Clause 15.01-2L (Landmarks).
- The aim of the policy is to protect views to the identified landmarks not to protect the landmark itself.
- The proposed strategies are appropriate subject to minor changes to improve the clarity and connection to Table 1.
- Table 1 should be included as part of the proposed strategies.
- The proposed landmarks and nominated views in Table 1 are appropriate subject to the following modifications:
 - St Lukes Church – delete the second view in Column 2
 - Former Dimmey's Store – modify the second view in Column 2 to state 'Northwest corner of Stewart and Swan Streets Intersection'
 - Fitzroy Town Hall – modify the third view in Column 2 to state 'Northwest corner of the intersection of Kent Street and Moor Street'
 - Pelaco sign – delete the first and second views in Column 2
 - Skipping Girl – modify the second view in Column 2 to state 'Entry to City of Yarra from the east (Victoria Street footpath, south side)'
 - Nylex Sign – delete Column 1, 2 and 3.
- The heading for Column 3 in Table 1 should be modified to refer to 'Significant elements'.
- The identified significant elements for each landmark are appropriate.
- Secondary views and additional landmarks should not be included in the policy as part of this Amendment.
- The Landmarks and Views Assessment should not be included as a policy guideline or Background document listed in the Clause 72.08 Schedule.

The Panel recommends:

15. Amend Clause 15.01-2L (Landmarks) under the heading 'Strategies' to:

- a) **modify the second strategy to state *"Site, scale and setback new development to avoid encroachment upon views to the identified significant elements of landmarks in Table 1."***
- b) **modify the third strategy to state *"Provide adequate setback and building separation to maintain clear sky between the identified significant elements of the landmark in Table 1 and new development."***
- c) **include 'Table 1: Landmark primary viewpoints and significant elements' under the last strategy**

d) modify Table 1 to:

- change the heading in Column 3 to refer to 'Significant elements'
- St Lukes Church – delete the second view in Column 2
- Former Dimmey's Store – modify the second view in Column 2 to state '*Northwest corner of Stewart and Swan Streets Intersection*'
- Fitzroy Town Hall – modify the third view in Column 2 to state '*Northwest corner of the intersection of Kent Street and Moor Street*'
- Pelaco Sign – delete the first and second views in Column 2
- Skipping Girl – modify the second view in Column 2 to state '*Entry to City of Yarra from the east (Victoria Street footpath, south side)*'
- Nylex Sign – delete Column 1, 2 and 3.

16. Amend Clause 15.01-2L (Landmarks) to:

- a) delete the heading 'Policy Guidelines'
- b) delete the words 'Consider as relevant: *The City of Yarra Landmark and Views Assessment* (Urban Ethos, October 2019).

17. Amend the Clause 72.08 (Background documents) Schedule to delete *The City of Yarra Landmarks and Views Assessment* (Ethos Urban, October 2019).

10 Noise

10.1 What is proposed?

The proposed Clause 13.07-1L (Interfaces and amenity) is an update of the existing policy with new content. It is also proposed to introduce:

- the Noise Discussion Report as a new Background Report
- Noise Guidelines as a policy guideline and new Incorporated Document.

Exhibited Clause 13.07-1L (Interfaces and amenity) includes:

Objectives

To protect the normal operation of business and industrial activities from new residential use and development.

To provide a reasonable level of amenity to new residential development within or adjacent to land in commercial and industrial zones, while not impeding the growth and operation of surrounding non-residential development and land use in those zones.

To promote land use outcomes that advance the primary purpose of a zone by ensuring amenity considerations facilitate intended land uses permissible in the zone.

Strategies

Non-residential use and development

Noise

Locate noise generating uses, including plant and equipment, away from noise-sensitive habitable rooms (in particular, bedrooms) and private open space and where appropriate incorporate acoustic attenuation measures.

Ensure that noise emissions in residential zones (except the mixed use zone) are compatible with a residential environment.

...

Residential development

Noise

Require new residential use and development to include design measures to minimise the impact of the normal operation of existing commercial and industrial operations on the amenity of the dwelling, such as:

- Locating noise-sensitive rooms (in particular, bedrooms) and private open space away from existing and potential noise sources, and where appropriate incorporate other measures such as acoustic fencing, landscaping, acoustic glazing to balconies and windows and building setbacks.
- Providing for air ventilation that avoids compromising acoustic amenity when windows are closed.

...

It includes a clause on policy application and includes a map showing relevant main roads and train lines.

Council described the intention and scope of the Noise Guidelines in its Part A submission:

... under clause 13.07-1L it is policy that the Noise Guidelines be considered as relevant when assessing applications for non-residential use and development and certain types of accommodation. The Noise Guidelines seek to provide additional

guidance for making planning decisions when considering noise impacts from urban development.

The Noise Guidelines deal with noise (and in some cases vibration) impacts from:

- road traffic;
- rail and trams;
- commercial and industrial plant and equipment;
- music;
- patrons; and
- apartments.¹³⁴

Proposed Clause 13.07-1L (Licensed premises) contains a strategy and policy guidelines relating to noise.

10.2 Background and relevant documents

The local policy is proposed to be updated to address shortcomings identified through the Planning Scheme Review. It builds on existing policy and provides additional policy based on input from acoustic consultants to address noise. The revised policy seeks to ensure that new residential development near live music venues and main roads and train lines protects itself from noise.

Key policy sources include:

- Clause 22.01 (Discretionary uses in the Residential 1 Zone)
- Clause 22.05 (Interface uses)
- Noise Guidelines
- Noise Discussion Report.

Existing State policy Clause 13.05-1S (Noise abatement) includes the objective to assist the control of noise effects on sensitive land uses, and strategy to ensure *“development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area”*.

Clause 13.05-1S (Noise abatement) requires consideration of:

- policy guidelines
 - the noise requirements in accordance with the Environment Protection Regulations under the *Environment Protection Act 2017*
- policy documents
 - Environment Protection Regulations under the *Environment Protection Act 2017*
 - *Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues* (Publication 1826.2, Environment Protection Authority, March 2021).

Existing Clause 53.06 (Live music entertainment venues) includes purposes to:

- protect live music entertainment venues from the encroachment of noise sensitive residential uses.
- ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.

¹³⁴ Document 84 – Council Part A submission, para 66 and 67

- ensure that the primary responsibility for noise attenuation rests with the agent of change.

PPN81 provides guidance for the operation of Clause 53.06 (Live music and entertainment venues).

PPN83 provides guidance about the operation of Clause 55.07-6 (Noise impacts) and Clause 58.04-3 (Noise impacts) for apartment developments.

10.3 The issues

The issues are:

- whether Clause 13.07-1L (Interfaces and amenity) is strategically justified and policy triggers are appropriate
- whether Clause 13.07-1L (Interfaces and amenity) and the Noise Guidelines should be changed in response to comments and advice from the EPA
- whether the recommended maximum noise levels should be included in Clause 13.07-1L (Interfaces and amenity), or the Noise Guidelines, or both
- where the technical directions about assessment, noise masking and other measures should be contained
- whether the new patron noise standards should be cross referenced with proposed Clause 13.07-1L (Licensed premises)
- whether a policy should be introduced to allow only one noisy building/construction project at a time with a 500 metre radius of a dwelling
- whether density along arterial roads should be managed to avoid harm from noise and air pollution.

10.4 Evidence and submissions

(i) Strategic justification

Council submitted that managing different land uses and amenity expectations for existing and new residents and businesses was an ongoing issue that Council had sought to address through the Amendment.

Council worked with acoustic consultants SLR Consulting Australia Pty Ltd for over a decade to prepare the Noise Discussion Report, and to assist with drafting of Clause 13.07-1L and Noise Guidelines. The Noise Discussion Report sets out the basis of the proposed planning provisions and maximum recommended noise limits, their application and assessment.

Council submitted:

The role of the new policy is to assist in the assessment of permit applications from “noise emitters” to manage noise emissions and permit applications from “noise receivers” to ensure that new residential development in proximity to existing “noise emitters” provides a good level of internal amenity for residents.

Put simply, the new policy aims to address some of the gaps in existing acoustic provisions in the Scheme that have been identified by Council over the years and to

provide a policy framework that aims to reduce the risk of complaints about noise from “encroaching” residential uses.¹³⁵

Council submitted a ‘noise chart’ which explains the relationship between the proposed provisions and Noise Guidelines and the existing Planning Scheme provisions and the EPA protocols.¹³⁶ The Amendment seeks to supplement existing provisions in the Planning Scheme, including Clause 13.05-1S (Noise abatement), Clause 55.07-6 (Apartment developments - Noise impacts objectives), Clause 58.04-3 (Amenity Impacts – Noise impacts objectives) and Clause 53.06 (Live music entertainment venues), and to work alongside the EPA Noise Protocol Part 1 and Part 2.

Council submitted the proposal had been prepared with consideration of PPN83, as explained in the Noise Guidelines. Proposed Clause 13.07-1L and the Noise Guidelines are intended to provide additional and higher amenity targets to protect existing businesses and commercial uses from encroaching residential development. Council submitted the additional policy direction was appropriate and necessary for the municipality given the linear form of its activity centres which support transport movements and housing intensification, and the proximity of Yarra’s major employment precincts to housing areas.

Council considered the Amendment is consistent with and supplementary to Clause 53.06 (Live music entertainment venues) and PPN81 by providing greater guidance on protecting amenity impacts from all music venues, not just live music venues, and by dealing with patron noise. Council cited a number of the Victorian Civil and Administrative Tribunal (VCAT) decisions which clarified that there is no statutory criteria to apply to patron or crowd noise. Council stated the proposal seeks to fill policy gaps *“of particular concern to Yarra given its artistic and cultural offers and popular night time economy”*.¹³⁷

Mr Antonopoulos gave evidence on behalf of Council. He considered the proposed local policy would complement and supplement existing planning provisions, in particular Clause 13.05-1S (Noise abatement), Clause 13.07-3S (Live music) and Clause 53.06 (Live music entertainment venues), and was consistent with and would expand on the guidance in PPN81 and PPN83.

Mr Antonopoulos considered the new local policy represented a *“highly favourable implementation to the planning scheme that provides protection of both existing businesses and new sensitive uses”*.¹³⁸ He was of the view the proposal would appropriately provide additional protection relating to:

- triggering of road traffic noise assessments
- assessment of ‘night period’ to ensure it aligns with EPA definitions and with additional criteria for this period for traffic noise
- providing more stringent amenity targets for industrial noise to better align with EPA noise regulations.

The EPA supported:

- proposed Clause 13.07-1L (Interfaces and amenity), acknowledging the objectives remain to protect both residential and industry from amenity and interface impacts
- Council’s focus on planning for mitigation at the earliest stage of the process

¹³⁵ Document 125 – Council Supplementary Part B submission, para 71 and 72

¹³⁶ Document 118, Comparison for different types of noise between existing scheme provisions and proposed clause 13.07-1L and Guidelines

¹³⁷ Document 125, Council Part B submission, para 97 - 98

¹³⁸ Document 88, Expert Witness Statement Mr Antonopoulos, para 15

- the intent of the Noise Guidelines “*which seeks to assist planners in planning decisions in relation to a range of noise issues within the municipality where there may be policy gaps or policy may be unsuitable for specific scenarios.*”

In relation to policy application, Mr Antonopoulos stated:

Clause 13.07-1L effectively provides more prescriptive design targets and approaches to address sensitive land use development near existing commercial uses. Importantly, the Clause also triggers consideration of noise related aspects that are not captured by other planning scheme policies, in particular:

- A trigger is provided for any residential zone development within 30 m of a commercial or industrial zone.
- A trigger is provided for hotels, not just live music venues.
- A trigger is provided for any development that is within 50 m of a major road as nominated in the *Main Roads and Train Lines Map*.

In response to questions from the Panel, Council advised the nominated roads as shown in the Main Roads and Train Line Map in Clause 13.07-1L (Interfaces and amenity), were identified by Council because they were arterial roads, freeway or collector roads, specifically roads in the Road Zone Schedule 1 and many collector roads. Collector roads not included were through areas that are predominantly zoned NRZ, GRZ or PPRZ.

In justifying the 30 metre distance from existing commercial or industrial zone and 50 metre distance from a main road or trainline, Council stated:

Mr Antonopoulos explained that a judgement needed to be made with regard to the interface point and that he was comfortable that these distances would not be limited to the immediate interface and would not extend beyond a distance at which the noise could be regarded as a nuisance.

Council summarised Mr Antonopoulos’ explanation of the strategic basis for the policy and maximum noise levels in the Noise Guidelines:

Mr Antonopoulos explained that a number of reference documents and industry standards and practices were considered in developing the various recommended maximum noise levels, L_{max} sleep disturbance criteria and assessment approaches. This included the *NSW Development Near Rail Corridors and Busy Roads Guideline* [NSW Interim Guideline]¹³⁹, the World Health Organisation and the AAC Guideline for Apartment and Townhouse Acoustic Rating.

(ii) EPA issues

The Noise Guidelines were reviewed by EPA’s noise expert team.

The EPA provided the following general comments:

- reference to policies needs to be updated to align with introduction of the new *Environment Protection Act 2017* and supporting guidelines
- concern with the wording “*design targets*” which may be misunderstood as levels to design up to, with suggested alternative wording such as “*highest [guideline] levels*”
- suggested to more explicitly promote building siting and internal layout as the primary considerations to minimise or otherwise reduce noise exposure.

The EPA submitted specific advice relating to the Noise Guidelines, including:

¹³⁹ Development near Rail Corridors and Busy Roads-Interim Guideline, Department of Planning, State Government of NSW, 2008

Section 2.2 refers to the NSW Development Near Rail Corridors and Busy Roads – Interim Guideline for guidance for measuring and reporting road and rail noise. Instead, the guideline should refer to the planning practice note PPN83 Assessing external noise impacts for apartments for measuring and reporting of road and rail noise when applying clause 58 of the VPP.

Section 5.4 the Guideline also refers to the use of a masking system. It is not clear that a masking system based on L_{90} will mask low frequency bass music noise. Further, while noise masking can provide suitable outcomes, it is not appropriate in all situations.

In Section 6.1.4 the Guideline for patron noise from new outdoor areas of 55 dBA L_{max} in bedrooms with windows open is high and is unlikely to support sleep with the windows open.

While this could be considered equivalent to the guidelines for new residential development near existing outdoor patron areas (Section 6.2.4), existing residences may not have adequate ventilation when windows are closed. Adopting this guideline would mean that new outdoor patron areas could cause online sleep disruption for existing residences living nearby.

Section 7.1.2 applies to noise from apartment developments to existing dwellings from car park equipment. This section should specify where this noise is to be assessed. Further, the guideline design level of 65 dBA from the operation of car park equipment is considered too high and like patron noise described above, it is equivalent to a level of 55 dBA L_{max} inside bedrooms with the window open and is likely to cause sleep disturbance. Such equipment should be designed to be as quiet as possible.

Finally, it is recommended that the bibliography include the relevant VCAT cases and references for terms acoustic rating curves (NR, RC, NC).¹⁴⁰

Council proposed to change the exhibited planning provisions and documents in response to the EPA submission, including:

- updating the documents to reflect the expected changes to the environment protection legislation in 2021
- referring to 'recommended maximum noise level' instead of 'design targets'
- confirming that wherever possible building siting and internal layout should be the primary considerations to minimise or otherwise reduce noise exposure
- clarifying the circumstances where the use of noise masking is appropriate
- including a glossary in the Noise Guidelines.¹⁴¹

Council did not support the following suggested changes by the EPA to the Noise Guidelines:

- reference to PPN83 instead of the NSW guidelines currently included
- removal of the proposed L_{max} design levels for patron noise and car park noise
- including relevant VCAT cases in the bibliography.

Mr Antonopoulos supported the post exhibition changes proposed by Council in response to issues identified by the EPA. He summarised the proposed changes to the guidelines, including:

- updates in referenced new noise legislation and other guidelines
- general clarifications and wording improvements
- updates to the terminology and bibliography.

¹⁴⁰ Submission 15, Environment Protection Authority

¹⁴¹ Council Meeting Agenda, 3 August 2021, Attachment 3, page 22

He considered it appropriate to use all options available in managing music noise, including noise masking as an option, and supported the wording suggested by Council helped to improve clarity on the approach.

Consistent with Council's position, Mr Antonopoulos explained why he did not support a number of EPA suggestions:

- Section 2.2 - it is appropriate to maintain reference to the NSW Interim Guideline as it is included for additional guidance only, and does not form part of the Noise Guideline recommendations or translate directly to Clause 13.07-1L (Interfaces and amenity). It does not exclude the use of PPN83
- Section 6.1.4 - the proposed 55 dBA L_{max}¹⁴² design level is typically used by consultants in Melbourne when L_{max} is assessed and:

The above internal L_{max} levels are considered acceptable in an inner city environment, where there are typically other sources of instantaneous L_{max} noise, including vehicle passbys, pedestrians on the street and the like. The 'closed window' L_{max} target levels fall within the more stringent sleep disturbance criteria nominated by the WHO and historic sleep disturbance studies.

It is also of consideration that the L_{max} assessment is a secondary assessment, with patron noise also being assessed to an L_{eq}¹⁴³ target. The L_{eq} target is in most instances the more difficult to meet, and compliance with the L_{eq} target typically results in L_{max} levels lower than 65 dBA externally.

...

I also note that carpark equipment is still assessable to the Noise Protocols and the L_{max} is a supplementary assessment. The assessment location is stated to be outside an openable window, which would be a bedroom used for sleep.

- it is not appropriate to include specific VCAT cases as findings can and have varied and do not take into consideration new guidance.

(iii) Other issues

Several submitters were generally concerned about an increase in noise pollution as a result of development and transport noise. Issues were raised about construction noise and one submitter requested a new policy be introduced to restrict development to allow only one noise construction project at a time within a 500 metres of any residential development. Council submitted that this proposal was outside the scope of the Amendment and that it had referred this concern to its Construction Enforcement Unit.

Ms Giles-Corti submitted there was clear evidence that noise and air pollution from building on arterials cause major damaging health impacts, and how density is built in these locations requires particular attention to avoid harm.¹⁴⁴

Council considered that Ms Giles-Corti's concern about noise and air pollution was addressed by Clause 13.07-1L (Interfaces and amenity) which includes content on fumes, air emissions, light spill

¹⁴² dB/dBA – Decibel/'A' weighted decibel. L_{max} (dB) or L_{max} (dBA) – the 'A' weighted maximum sound pressure level of an event. 'A' weighted – a frequency weighting representing the human response to sounds and its variation with frequency. Source: Noise Guideline

¹⁴³ L_{Aeq}(dB) or L_{eq}(dBA) - The 'A' weighted equivalent noise level, measured in decibels. The equivalent noise level is defined as the steady sound level that contains the same amount of acoustical energy as the corresponding time-varying sound.

¹⁴⁴ Submission 206

and vibration. Council did not propose any changes to the Amendment due to insufficient strategic justification.

Submissions 18 and 323 suggested the section on noise in Clause 13.07-1L (Licensed premises) would benefit from cross referencing with the new patron noise standards in Clause 13.07-1L (Interfaces and amenity).

In response to general noise related issues, Mr Antonopoulos considered the Amendment would address some of those issues by improving amenity to new residential developments, such as requirement assessment and control of traffic noise and other commercial noise impacts to new developments.

Noting the issues raised relating to Clause 13.07.1L (Licensed premises) issue related to the structure and referencing of the clauses, Mr Antonopoulos considered the wording of Clause 13.07-1L (Interfaces and amenity) would satisfy submitter concerns relating to patron noise, as it would be triggered by a new application for non-residential development. He noted that the wording needed to be updated to include reference to the new EPA noise legislation. Council agreed with this change and included updated wording in its 'Part C version' of Clause 13.07.1L (Licensed premises).

(iv) Drafting

Ms Ancell advised that her review in relation the noise policy was limited to the drafting of the proposed policies, as the technical aspects were outside of her planning expertise. In relation to Clause 13.07-1L (Interfaces and amenity) she recommended:

- moving the hours of operation strategy to the policy guidelines
- deleting references to the acoustic reports and waste management plans from the policy guidelines, as application requirements should not be located within local policy. She suggested these could potentially be included in the Incorporated Document associated with the clause
- deleting any policy guidelines that directly reflect the EPA noise requirements under the *Environment Protection Act 2017* as these are referred to in Clause 13.05-1S.

With consideration of PPN13, Ms Ancell supported inclusion of:

- the Noise Guidelines as an Incorporated Document on the basis that it would *"be used to guide the exercise of discretion by Council when considering permit applications"*
- the proposed noise Background Document.

The changes proposed by Council in response to submissions were included in Council's 'Part C version' of the Amendment documents.¹⁴⁵ Mr Antonopoulos supported the post exhibition changes proposed by Council stating they appropriately updated references to legislation and other guidelines, updated terminology and the bibliography, made general clarifications and wording improvements and some minor corrections. He provided an updated version of the Noise Discussion Report to be consisted with these changes.

Council submitted that the policy had been drafted to include triggers for assessment, objectives and *"identification of recommended maximum noise levels where these differ from the EPA Noise*

¹⁴⁵ Document 209

Protocol or existing planning scheme provisions”.¹⁴⁶ The policy guidelines section of the local policy directly references the Noise Guidelines, and includes some but not all recommended maximum noise levels.

Council proposed to revise the date of the Noise Guidelines in the Clause 72.04 Schedule and Noise Discussion Report in the Clause 72.08 Schedule.

Council submitted that it:

would be assisted by guidance from the Panel as to whether the recommended maximum noise levels should be included in Clause 13.07-1L or the Guidelines or both, and where the technical directions about assessment, noise masking and other measures should be contained.

10.5 Discussion

(i) Strategic justification

Management of noise impacts is a very important issue in Yarra to support economic activity, in particular night-time economy, and to maintain amenity. Council has been working with an acoustic consultant over many years to ensure that noise impacts are appropriately assessed and managed, and the proposal is designed to fill policy gaps based on local experience and practical application relating to development approvals. With a growing population and expectation of increased density in some areas, the Panel accepts there would be a benefit to introducing clear guidelines to effectively manage noise impacts, and to apply higher standards, where justified.

The Panel considers it significant that the EPA generally supports the proposal, subject to specific comments and advice. The Panel agrees with Council and Mr Antonopoulos that the additional policy direction is appropriate and necessary for Yarra due to nature and proximity of various land uses and intensity of existing and proposed development.

The ‘noise chart’ provided by Council was helpful and assisted the Panel in understanding the relationship between existing planning provisions and EPA protocols and the proposed Amendment. The Panel accepts that the proposal complements and supplements existing noise policy, and is reassured by the EPA that the Amendment focuses on managing noise impacts not currently strongly managed by the EPA. Hence, the proposal is filling a regulatory gap in noise impact management.

The Panel considers the proposal progressive and commends Council’s proactive approach to responding to policy gaps identified through the Planning Scheme Review.

While Council and Mr Antonopoulos stated the relationship of the proposed policy and documents to PPN83 was explained in the Noise Guidelines and Noise Discussion Report, the Panel could not find a reference to PPN83 in these documents.

The Noise Guidelines and Noise Discussion Report reference PPN81 in Chapter 5.1.1 Music Noise Compliance Indoors (post exhibition chapter title) in regard to providing options for upgrading a noise sensitive dwelling. However, the reference is limited to a statement that the options are inadequate to address bass music noise levels and does not provide any further information about PPN81.

¹⁴⁶ Document 125 – Council’s Supplementary Part B submission, para 81

The Panel is surprised the relevance and relationship of the proposal with planning practice notes is not well documented in the proposed incorporated and background documents, and considers this a deficiency. It is important and would be helpful if the relationship to PPN81 and PPN83 was identified and explained in these documents.

Issues discussed at the Hearing focussed on the strategic basis and research underpinning specific elements of the proposal, including policy application triggers. It is clear that there is a policy gap, and potentially a research gap, relating to some of the areas of policy proposed. In this regard, Mr Antonopoulos relied on accepted industry practice, including several years of advice on suitable planning permit conditions in the City of Yarra. It would have assisted the Panel if an independent peer review of the noise policy and supporting documents had been undertaken.

While it would be preferable to have a clear evidence base for the proposed policy application triggers, the Panel accepts the evidence of Mr Antonopoulos that the triggers were reasonable and reflected industry practice. There were no submissions or counter evidence put to the Panel objecting to the policy application triggers. Further, the EPA supported the policy and Noise Guidelines and following review from its noise expert team, considered the guidelines acceptable subject to proposed changes which did not relate to policy application triggers.

While the Panel accepts Council's explanation of the basis for inclusion of roads on the Main Roads and Train Line Map, it is unclear how the criteria for selection has been applied consistently. It would be helpful for clarity and transparency for the road selection criteria to be clearly documented, and for Council to ensure that the criteria have been consistently applied in identifying roads for inclusion. This may be beneficial to include as an addendum to the Noise Discussion Report or other suitable document.

Overall, the Panel accepts the strategic basis of the proposal and has limited its discussion and recommendations to specific issues raised in submissions.

(ii) EPA issues

Council and Mr Antonopoulos accepted the changes suggested by the EPA relating to:

- referencing updated regulations
- replacing the wording 'design targets'
- more explicitly promoting building siting and internal layout as primary considerations to minimise or reduce noise
- including a glossary in the Noise Guidelines.

The Panel understands the basis for these changes and notes that Council has submitted post exhibition changes including additional and updated wording to address these issues. The Panel has reviewed and supports the wording changes suggested by Council in relation to these issues.

The Panel supports Council's proposal to update the reference to EPA regulations relating to noise in proposed Clause 13.07-1L (Licenced premises).

The Panel accepts Mr Antonopoulos' evidence that the reference to the NSW Interim Guideline is appropriate to retain in the Noise Guideline, on the basis that it is not binding but provides additional information and guidance that may assist with compliance.

The Panel agrees with the EPA that PPN83 should also be referenced in the Noise Guidelines. The content of PPN83 is useful in understanding the assessment process for apartments under existing provisions.

Section 5 of the Noise Guidelines relates to the issue of music noise impacts from existing venues to new dwellings. Noise masking is proposed as a noise mitigation tool.

The Panel agrees with Mr Antonopoulos that it is appropriate to include a reference to noise masking as a possible tool for achieving compliance with music noise limits indoors. It is currently referenced as an option in PPN81, and Council has suggested additional wording in the post exhibition version of the Noise Guidelines which provide greater guidance including the following note:

Noise masking must not be relied on as the sole measure to address music noise exceedances. It can, however, be implemented on a project in conjunction with other reasonable and practical façade upgrades.

As drafted, the requirements are consistent with requirements of the Noise Protocol, Part II noise limits and any proposed systems must undergo commissioning testing to the satisfaction of an acoustic consultant. The additional wording is appropriate, and as drafted, it provides guidance for situations where noise masking is the chosen noise management measure.

In relation to sleep disturbance the Noise Guidelines include:

- Section 6.1.4, relating to patron noise for new outdoor patron areas, specifies:

Sleep disturbance recommended maximum noise levels of 55 dBA Lmax in bedrooms with windows open (usually assessed as 65 dBA Lmax externally, outside openable windows).

- Section 7.1.2, relating to apartments and sleep disturbance, specifies:

Noise from operation of car-park equipment should be designed to comply with sleep disturbance criteria targets outside openable windows of nearby dwellings. Noise levels should not be in excess of 65 dBA Lmax.

Without counter evidence, the Panel accepts Mr Antonopoulos' evidence that the internal noise levels are likely to be significantly lower when windows are partly or fully closed, and the 'closed window' Lmax will fall well within the more stringent sleep disturbance criteria nominated by the WHO and historic sleep disturbance studies.

The Panel agrees with the EPA that Section 7.1.2 should specify where the noise is to be assessed. Mr Antonopoulos states in his evidence that it should be "*outside an openable window, which would be a bedroom used for sleep*". This is not reflected in the Noise Guidelines and the Panel considers this should be included for clarity and to guide appropriate assessment.

Section 3 of the Noise Guidelines, relating to rail noise, includes the following statement:

The levels of 60 dBA (living rooms) and 55 dBA (bedrooms) have been accepted at VCAT on some projects, and are cited by acoustical consultants on those grounds.

The Panel agrees with the EPA that relevant VCAT cases being relied on to establish standards or appropriate noise levels in the Noise Guidelines should be referenced in the bibliography of the Noise Guidelines. The Panel does not accept the argument that it is not appropriate to include them due to inconsistent findings or lack of reference to new guidance. While understanding that over time new VCAT decisions may influence new standards, inclusion of source documents is important for transparency and in justifying the basis of proposed standards.

The EPA did not raise issues relating to the Noise Discussion Report, however there are a number of consequential changes required as a result of changes to the Noise Guidelines. Council has identified these as post exhibition changes and the updated document was tabled by Mr

Antonopoulos. The Panel has reviewed the updated Noise Discussion Report and considers the changes appropriate.

(iii) General noise concerns

The Panel agrees with Council that it is outside the scope of the Amendment to introduce a requirement to restrict development to allow only one noise construction project at a time within 500 metres of any residential development. It also agrees with Council that further work would be required to determine policy guiding density along arterials to manage potential health impacts. The Panel makes no further comment on these issues.

The Panel agrees with Mr Antonopoulos that:

- the Amendment would address some of the general noise issues raised by submitters
- issues of patron noise would be addressed by the Amendment
- the wording of Clause 13.07.1L (Licensed premises) needs to be updated to reference the new EPA noise legislation.

(iv) Drafting

Clause 22.01 (Discretionary uses in the Residential 1 Zone) includes the following policy statement:

Hours of operation should be limited to 8am to 8pm except for convenience shop.

Clause 13.07-1L (Interfaces and amenity) includes a strategy relating to non-residential use and development:

Limit the hours of operation for a use proposed in a residential zone (except the Mixed Use Zone) to 8am to 8pm unless it can be demonstrated that the use will not cause unreasonable detriment to the amenity of adjoining residential uses.

The Practitioner's Guide explains:

Policy guidelines indicate how an objective can be met and how a strategy can be implemented. A responsible authority must take a relevant policy guideline into account when it makes a decision, but is not required give effect to it. If the responsible authority is satisfied that an alternative approach meets the policy objective, the alternative may be considered.

On this basis, the Panel agrees with Ms Ancell the translated strategy relating to hours of operation in Clause 13.07-1L (Interfaces and amenity) is better located in the policy guidelines. The Panel considers the wording could be simplified to read:

Limit the hours of operation for a use proposed in a residential zone (except the Mixed Use Zone) to 8am to 8pm ~~unless it can be demonstrated that the use will not cause unreasonable detriment to the amenity of adjoining residential uses.~~

Proposed Clause 13.07-1L (Interfaces and amenity) includes a policy guideline:

An Acoustic Report explaining whether residents will have a reasonable level of acoustic amenity in accordance with the distances specified in the policy application. If the Responsible Authority is satisfied there is minimal potential for noise disturbance to futureresidents, a formal acoustic assessment report may not be required.

The Panel agrees with Ms Ancell that that it is not appropriate to include application requirements in local policy, and hence the requirement for an acoustic report should be removed from the policy guidelines. The Panel also agrees with Ms Ancell that this requirement may be better located in the Noise Guidelines as the Incorporated Document associated with the local policy. As there are multiple references in the exhibited Noise Guidelines to acoustic reports and

assessments, it would be appropriate for Council determine whether additional reference to an acoustic report is required in Noise Guidelines prior to adoption of the Amendment.

The Panel observes that proposed Clause 13.07-1L (Licensed premises), under the Noise policy guidelines includes reference to preparation of an acoustic report. Consistent with Ms Ancell's evidence, the Panel considers it is not appropriate to include this requirement as a policy guideline.

The Panel agrees with Ms Ancell that the Noise Guidelines are an appropriate to include as Incorporated Document, and the Noise Discussion Report is an appropriate Background Document. However, the documents are somewhat confusing due to the duplication of content and material. This is exacerbated by the fact that the policy guidelines section of the policy includes some but not all recommended maximum noise levels.

Council has sought direction from the Panel on where the maximum noise levels, technical directions about assessment and noise mitigation measures should be referenced in the Amendment documents.

Several policy guidelines include reference to maximum noise levels and while these are sourced from the Noise Guidelines and drafted appropriately as policy guidelines, the duplication with content in the Noise Guidelines is confusing. The Panel considers that all maximum noise levels, technical directions about assessment and noise mitigation measures should be included in the Noise Guidelines only. Including the Noise Guidelines as a policy document, with clear guidelines for decision making, will avoid duplication and reduce confusion.

Council will need to review the Noise Guidelines document carefully to ensure that it has included all maximum noise levels, assessment requirements and noise mitigation measures that are currently referenced in Clause 13.05-1L (Interfaces and amenity).

The Noise Guidelines are currently included as a policy guideline. This is not consistent with the requirements of the Practitioner's Guide which states that a planning policy may include reference to a policy document, such as an Incorporated Document, and *"If a policy relies on an incorporated document then it must be referenced in the policy as a policy document and a decision maker must consider it when making a decision"*. On this basis the Noise Guidelines would be more appropriately included as a policy document.

The Panel agrees with Council the date of the Noise Guidelines and Noise Discussion Report should be updated in the schedules to Clause 72.04 (Documents incorporated in this planning scheme) and Clause 72.08 (Background documents).

The Panel has reviewed the draft documents and makes a number of recommendations relating to drafting in addition to those identified in the above discussion.

10.6 Conclusions and recommendations

The Panel concludes:

- Clause 13.07-1L (Interfaces and amenity) responds to an identified policy gap, is strategically justified and policy triggers are appropriate.
- Clause 13.07-1L (Interfaces and amenity) and the Noise Guidelines should be amended in response to comments and advice from the EPA that were agreed by Council and Mr Antonopoulos, including updating references to regulatory documents, replacing the wording 'design targets', more explicitly promoting building siting and internal layout as

primary considerations to minimise or reduce noise and including a glossary in the Noise Guidelines.

- The relevance and relationship of the proposal with planning practice notes (PPN81 and PPN83) should be clearly documented in the Noise Guidelines and Noise Background Report.
- Clause 13.07-1L (Interfaces and amenity) should be amended to remove the requirement for acoustic reports and waste management plans, and the strategy relating to hours of operation should be moved to 'Policy Guidelines'.
- In the Noise Guidelines, it is appropriate to:
 - maintain a reference to the NSW Interim Guideline
 - include a reference to noise masking as a possible tool for achieving compliance with music noise limits indoors, and to include additional wording to provide greater guidance
 - to specify where the noise is to be assessed in relation to sleep disturbance
 - reference relevant VCAT cases being relied on to establish standards or appropriate noise levels in the bibliography.
- The recommended maximum noise levels, technical directions about assessment, noise masking and other measures should be contained should be included in the Noise Guidelines only.
- It is not appropriate or necessary to cross reference the new patron noise standards in proposed Clause 13.07-1L (Licensed premises).
- Clause 13.07-1L (Licenced premises) should be amended to refer to updated EPA regulations relating to noise.
- The Amendment is likely to address some of the general noise issues raised by submitters, and suggestions relating to restricting development and policy guidance density along arterials are outside the scope of the Amendment.

The Panel recommends:

18. Amend Clause 13.07-1L (Interfaces and amenity) to:

- a) update the wording in accordance with Council's 'Part C version' (Document 209) with updated references to regulatory documents and replacing the wording 'design targets'
- b) delete policy guidelines relating to maximum noise levels, technical directions about assessment, noise masking, other measures and the requirement for acoustic reports and waste management plans
- c) move the strategy relating to hours of operation under the heading 'Policy Guidelines' and amend the wording to state:
 - *Limit the hours of operation for a use proposed in a residential zone (except the Mixed Use Zone) to 8am to 8pm.*
- d) delete *Guidelines – managing noise impacts in urban development* from under the heading 'Policy Guidelines'
- e) add a heading 'Policy Documents' and add *Guidelines – managing noise impacts in urban development* and insert final version date.

19. Amend the *Guidelines – managing noise impacts in urban development*, in accordance with the changes proposed by Council in its post exhibition 'Panel version' of the document (Document 70), and:

- a) update the date on the cover page
- b) update section and sub section numbering
- c) include all relevant technical directions about assessment, noise masking and other measures under the heading 'Policy Guidelines', including any addition requirements, if any, included in the exhibited Clause 13.07-1L (Interfaces and amenity)
- d) replace "*The Explanatory Report for the original Amendment states...*" with "*The Explanatory Report for Amendment VC120 states...*" in new Section 6 Music Noise, Section 6.1 Background information,
- e) include an explanation of the relevance and relationship with Planning Practice Notes 81 and 83
- f) amend the wording of new Section 8.1.2 Sleep Disturbance to state "*Noise from operation of car-park equipment should be designed to comply with sleep disturbance criteria targets outside openable windows of bedrooms of nearby dwellings. Noise levels should not be in excess of 65 dBA Lmax.*"
- g) include a reference to relevant VCAT cases being relied on to establish standards or appropriate noise levels in the bibliography.

20. Amend the Schedule to Clause 72.04 (Documents incorporated in this planning scheme) to update the date of *Guidelines – managing noise impacts in urban development*.

21. Amend the Schedule to Clause 72.08 (Background documents) to update the date of the *Noise and Vibration Considerations Discussion Report*.

Further recommendation

The Panel informally recommends that Council amend, through a separate process, the *Noise and Vibration Considerations Discussion Report* in accordance with the changes proposed by Mr Antonopoulos (Document 152) and to include:

- an explanation of the relevance and relationship with Planning Practice Notes 81 and 83
- a reference to relevant VCAT cases being relied on to establish standards or appropriate noise levels in the bibliography.

11 Environmentally Sustainable Development

11.1 What is proposed?

The Amendment proposes to update existing ESD policy found in various parts of the MSS and local planning policies including Clause 21.07 (Environmental sustainability) and Clause 22.17 (Environmentally Sustainable Development).

The Amendment proposes to include new or translated ESD content in:

- the MPS
- Clause 15.02-1L (Environmentally Sustainable Development).

11.2 Background and relevant documents

Key policy sources include:

- Clause 21.07 (Environmental sustainability)
- Clause 22.17 (Environmentally Sustainable Development)
- CASBE draft policy.

City of Yarra is a member of CASBE and one of 19 Councils with ESD policy in its Planning Scheme. CASBE prepared a draft ESD local policy for CASBE Councils to use as part of their PPF translation.

Council submitted that CASBE had worked with DELWP to draft a local ESD policy in the new PPF format. CASBE did not support all the revisions DELWP made to this draft local policy and had prepared its own version. Council submitted the CASBE local policy version to DELWP for authorisation.

The letter of authorisation from DELWP included the following condition:

Replace Clause 15.02-1L 'Environmentally Sustainable Development' with the enclosed updated Environmentally Sustainable Development (ESD) template to ensure consistency with the state position on ESD for Council Alliance for a Sustainable Built Environment (CASBE) councils.

In response to the conditional authorisation from DELWP, Council replaced the CASBE version of the local policy with the DELWP version of the policy. Council advised the DELWP version of the policy was exhibited with the Amendment.

The Practitioner's Guide states:

Environmental Sustainability Design (ESD) is addressed throughout the PPF under a range of different themes. Local policies about ESD are encouraged to be integrated into the PPF under the appropriate themes. Multi-themed ESD policies relating to matters such as energy, noise transmission, potable water re-use, stormwater, water-sensitive urban design, transport, waste management, vegetation can be placed under Clause 15.02-1 Energy resource and efficiency. This is a temporary location for this kind of policy. A sunset provision will be applied to any consolidated multi-themed ESD policy at Clause 15.02-1, requiring that the policy be revisited pending the completion of Action 80 from the Plan Melbourne Implementation Plan. ESD policies that relate to one or two ESD themes (such as water sensitive urban design and sustainable transport) should be separated and placed under their relevant thematic headings

11.3 The issues

The issues are whether:

- the proposed Clause 15.02-1L (Environmentally Sustainable Development) should be changed to aligned with the CASBE preferred version
- additional or strengthened ESD standards should be included in Clause 15.02-1L (Environmentally Sustainable Development)
- it is appropriate to remove the publication date of BESS in the Schedule to Clause 72.08
- the policy guidelines should include a statement 'unless otherwise agreed by the Responsible Authority'
- transitional provisions are required for policy commencement
- the location and cross referencing of other relevant provisions is appropriate
- clearer guidance is required in applying Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

11.4 Evidence and submissions

Council submitted that in response to exhibition of the Amendment, it received submissions from CASBE and three other CASBE Councils expressing concerns in relation to the exhibited Clause 15.02-1L (Environmentally Sustainable Development). The CASBE submission attached its preferred CASBE version of the local policy.

Council submitted that it supports the proposed CASBE changes to the planning provisions. The post exhibition changes proposed by Council were based on the November 2020 CASBE preferred version (provided as part of Submission 16), and include:

- removing the strategy relating to minimising environmental impacts
- including a revised strategy which explains what is required to achieve best practice
- substituting the word 'comparable' with 'equivalent' in the sunset clause
- deleting of the publication date for BESS in the Clause 72.08 Schedule.

Council referred to the recent Panel Report for Hobsons Bay Planning Scheme Amendment C131hbay which supported the proposed CASBE and DELWP wording.¹⁴⁷

Council stated that it was unaware that CASBE and DELWP have an agreed version of the policy as referred to in the Panel report, and it relied on the CASBE version of the policy and the Hobsons Bay Panel Report which stated:

These changes include rewording the strategies to focus on best practice and amending the sunset clause to align with the wording of seventeen of the eighteen other councils that have this policy in their schemes. Council was supportive of these changes. The Panel is too.

In response to a question from the Panel, Council provided the ESD template provided by DELWP¹⁴⁸ with its letter of authorisation. It further clarified that the exhibited version included an additional policy guideline:

A Sustainable Design Assessment or a Sustainability Management Plan must accompany an application given the proposed building typology.

¹⁴⁷ Panel Report - Hobsons Bay Planning Scheme Amendment C131hbay

¹⁴⁸ Document 125, Council Supplementary Part submission, Attachment 3

The Council preferred 'Panel version' of the local policy excluded this additional policy guideline.

At the Hearing, CASBE explained its role and history as an 'unincorporated governance structure' auspiced by the Municipal Association of Victoria. Its focus is getting more sustainable outcomes in the built environment through the planning system, and currently has 40 member Councils and a larger informal network.

CASBE submitted that CASBE Councils were of the view the local ESD policies that had already been translated and gazetted in the DELWP preferred version are not policy neutral. It considered the removal of the definition of Best Practice has changed the meaning and intention of the original ESD policy and has undone significant work undertaken by the CASBE Councils. It submitted alternative wording to the strategies section of the local policy to achieve a policy neutral translation.

In relation to the wording of the sunset clause to replace 'equivalent' with 'comparable', CASBE strongly recommended the word 'equivalent' be used. It was concerned that using 'comparable' may result in regression on the progress made over many years to raise the standards of sustainable design in the industry.

CASBE recommended the publication date for BESS be removed so that it is listed in a similar way to the other tools referenced in the policy guidelines, for example GreenStar, MUSIC, NatHERS and STORM, which all undergo upgrades from time to time.

Moreland City Council (Submission 17), City of Port Phillip (Submission 78) and City of Stonnington (Submission 179) are all members of CASBE who supported the intent of the Amendment and the changes proposed by CASBE.

Moreland City Council suggested the Amendment be modified to reflect the CASBE version. Moreland considered the consistency of the local policy across Councils was important for planning's ability to influence sustainability in the built environment across Victoria.

Moreland City Council considered it significant that the CASBE version was developed collaboratively by environmental sustainability practitioners, and statutory and strategic planners of CASBE Councils.

City of Port Phillip considered the definition of best practice was a critical foundation for demonstrating appropriate outcomes in relation to policy objectives. It was concerned that if it was not included then a more generic definition of best practice would apply which is not useful in the interpretation of this policy.

City of Stonnington submitted that the current local ESD policies arose from an absence of State ESD planning legislation and have been crucial in allowing Councils to fulfill local, state and federal government environment commitments. The local policy provides a robust and consistent policy that optimises ESD outcomes at the planning stage, and had been well accepted by the development community. City of Stonnington considered it critical to retain the definition of best practice in the policy.

In relation to Clause 15.02-1L (Environmentally Sustainable Development), Ms Vines considered it *"important to reference the Sustainable Development Goals as an important framework for this Clause. In addition, cross referencing 19.03-3L water sensitive urban design is important"*.¹⁴⁹

¹⁴⁹ Document 92 – Expert Witness Statement, E Vines, page 24

Mr Holdsworth considered Clause 15.02-1L (Environmentally Sustainable Development) should *“be adapted into a template that should be applied to all Clauses that impact the built form of a proposal”* and Clause 19.03-3L (Water sensitive urban design) should be considered for incorporation into Clause 15.02-1L.

The Panel sought clarification from Mr Holdsworth on what he was proposing in relation to Clause 19.03-3L (Water sensitive urban design) and he confirmed he believed the policy should be in the same place as Clause 15.02-1L.

Ms Ancell considered 15.02-1L was appropriately drafted.

YCAN submitted it supported use of the term ‘best practice’ or ‘environmental best practice’ with a definition such as the one proposed by CASBE, on the basis it would allow flexibility to keep up with innovation and industry standards over time. YCAN submitted the Amendment made an important omission relating to transition away from natural gas as a fuel.

Regarding climate change impacts, PFN referred to the duty of care for decision makers to consider future generations. PFN cited the wording of Moreland’s Clause 02.03-4, which is more explicit in describing life cycle assessment considerations than the proposed Clause 15.02-1L.

Mr Nott spoke to the relationship between ESD, demolition and embodied energy of materials, and the historic role of verandahs in assisting with building climate control and associated energy usage. He submitted this needed to be considered in Clause 15.02-1L and suggested wording relating to shading by canopies and verandahs and double glazing. Several submissions sought to reinstate verandahs for improved sustainability performance.

Many submissions supported the range of ESD provisions in the local policy, and several submissions sought stronger or additional provisions. They sought to:

- make ESD central to all designs and planning decisions, in the context of the climate emergency declaration
- require all new buildings to have sustainable features, be energy efficient and carbon neutral developments, mandating meaningful sustainability standards, discourage the use of gas in housing developments
- encourage adaptive reuse of buildings to avoid demolition, save waste and save energy
- increase requirements for open space and greening and managing heat island effect
- identify that high-rise are not sustainable buildings
- consider urban farm/plant farm buildings rather than office blocks.

One submission raised issues about potentially competing objectives at the planning permit stage, for example heritage policy restricting what can be done to a building that can contradict ESD objectives, and sought clearer guidance in applying Clause 71.02-3 (Integrated decision making) of the Planning Scheme. The submitter was also concerned the ESD local policy was not linked to the objectives that need to be addressed in Clauses 54 and 55 of the Planning Scheme.

UEM Sunrise submitted the policy guidelines for Clause 15.02-1L (Environmentally Sustainable Development) should continue to include the statement ‘unless otherwise agreed by the Responsible Authority’ to acknowledge that not all applications identified may necessitate a Sustainable Design Assessment (SDA) or a Sustainable Management Plan (SMP). Also, *“policy commencement should align with the gazettal of the Amendment, pending Ministerial approval. It would be unreasonable and unjust to not include a transitional provision for these requirements”*.

In response to requests for additional or strengthened ESD standards, Council submitted that it was important to ensure its policy was consistent with the approach undertaken by other CASBE Councils who are working together to pursue a Planning Scheme amendment that builds on the existing local ESD policies in the planning schemes of numerous Victorian Councils.¹⁵⁰

In relation to specific issues raised, Council submitted that many elements were outside the scope of the Amendment, including providing clearer guidance about application of Clause 71.02-3 and improvements to the electricity and renewable energy infrastructure and supply network. It submitted that the proposed ESD local policy was not exclusive to residential development assessed under Clauses 54 and 55 and had broader application.

11.5 Discussion

The current Clause 22.17 (Environmentally Sustainable Development) includes the following [Panel emphasis]:

Objectives

The overarching objective is that development should achieve **best practice** in environmentally sustainable development from the design stage through to construction and operation.

In the context of this policy **best practice** is defined as a combination of commercially proven techniques, methodologies and systems, appropriate to the scale of development and site specific opportunities and constraints, which are demonstrated and locally available and have already led to optimum ESD outcomes. Best practice in the built environment encompasses the full life of the build.

As exhibited Clause 15.02-1L (Environmentally Sustainable Development) includes the following references to best practice [Panel emphasis]:

Objective

To achieve **best practice** in environmentally sustainable development from the design stage through to construction and operation.

Strategies

Facilitate development that minimises environmental impacts.

Encourage environmentally sustainable development that:

- Is consistent with the type and scale of the development
- Responds to site opportunities and constraints
- Adopts **best practice** through a combination of methods, processes and locally available technology that demonstrably minimise environmental impacts.

The Council preferred 'Part C version' of Clause 15.02-1L proposes the following change [Panel emphasis]:

Strategies

~~Facilitate development that minimises environmental impacts.~~

Achieve **Best Practice** environmentally sustainable development that:

- Is relevant to with the type and scale of the development.
- Responds to site opportunities and constraints.

¹⁵⁰ Document 84, Council Part A submission, Attachment E

- Utilises a combination of locally available techniques, methodologies and systems that, have been demonstrated to achieve optimum ESD outcomes; and
- Encompass the full life of the build.

In forming a view on the proposal, the Panel has considered whether it is:

- policy neutral and retains the meaning of the original clause, as intended
- appropriately drafted.

The current local policy introduces the requirements of best practice in the context of a definition in the form of an objective, stating *“In the context of this policy best practice is defined as...”*. CASBE considered this had caused concern with the translation as it is not appropriate to include a definition in the new PPF format local policy. The Panel agrees that it is not appropriate to include a definition in local policy.

It appears to the Panel the current local policy objective explains how best practice ESD will be achieved, rather than defines best practice. Consistent with the Practitioner’s Guide the Panel considers it entirely appropriate for a strategy to explain how an objective will be achieved.

The exhibited clause does not include all of the elements considered necessary to achieve best practice as identified in the current local policy. The Panel agrees with Council, CASBE and CASBE member Councils that as exhibited the strategy does not reflect a policy neutral translation of the exiting policy. It considers it significant that the CASBE version has been developed with input from Councils’ planning and environmentally sustainability officers. The CASBE version of the policy is a more accurate translation of existing policy.

The Panel turned its mind to whether the drafting of the strategy achieves the intent. The purpose of a strategy is to describe how an objective is to be achieved. The Panel notes the Practitioner’s Guide does not suggest use of the verb ‘achieve’ when writing strategies for the PPF¹⁵¹. The Panel considers the verb ‘encourage’ in the strategy, as proposed in the DELWP version, is more appropriate and more clearly explains the intent of the strategy. The word ‘achieve’ is more appropriately used in the objective.

In considering the suggested substitution of ‘comparable’ with ‘equivalent’ in the clause relating to expiry of the local policy, the Panel turned its mind to whether the proposed wording is policy neutral and achieving the intended outcome and appropriate.

The current and exhibited Clause 22.17 (Environmentally Sustainable Development) expiry clause are exactly the same, and hence policy neutral. The clause states:

This policy will expire if it is superseded by a comparable provision in the Victoria Planning Provisions.

In considering whether the expiry clause is achieving its intended outcome and is appropriate, the Panel is guided by the Practitioner’s Guide which clearly states a sunset provision will be applied to any consolidated multi-themed ESD policy. It states the policy will be revised when Action 80 from the Plan Melbourne Implementation Plan has been completed. Action 80 states:

Review the Victorian planning and building systems to support environmentally sustainable development outcomes for new buildings to consider their energy, water and waste management performance.

¹⁵¹ Practitioner’s Guide, Appendix 1 - Planning Policy Framework Verbs

The sunset clause is a trigger for updating or replacing the policy. The Panel acknowledges the concerns of Council and CASBE that the word 'comparable' does not lock in an equivalent standard of ESD policy. It is not the role of the expiry clause to specify what the substitute policy must constitute, and this will be determined through a separate process.

The Panel understands BESS is an online tool that is updated from time to time. It is appropriate to remove the date from the reference in the Clause 72.08 Schedule.

In response to the UEM Sunrise submission, the Panel considers the proposed additional wording to policy guidelines unnecessary. As explained in Chapter 10, policy guidelines are guidelines only, and while Council must take them into account when it makes a decision, it is not required give effect to them. The Panel does not agree that transitional provisions are required for policy commencement as the policy is already in Clause 22.17 of the Planning Scheme.

In response to submissions and evidence relating to cross referencing or combining the ESD local policy with other clauses in the Planning Scheme, the Panel considered the current location of Clauses appropriate. Clause 19.03-3L (Water sensitive urban design) is appropriately located in Clause 19 Infrastructure as it addresses a range of matters beyond ESD. Cross referencing is not required as all relevant provisions must be considered, and this is consistent with the Practitioner's Guide.

The Panel accepts Council's position that a number of submissions raised issues outside of the scope of the current Amendment, and that further strategic work would be required to progress some ideas. It understands that Council is continuing to work with CASBE to build on ESD provisions through a separate process.

The Panel is satisfied that competing objectives are required to be considered by a responsible authority in determining a planning permit application in accordance with Clause 71.02-3 (Integrated decision making).

11.6 Conclusions and recommendations

The Panel concludes:

- Proposed Clause 15.02-1L (Environmentally Sustainable Development) should be amended to align with the CASBE preferred version subject to using the verb 'encourage' instead of 'achieve' in the strategy relating to best practice, and retaining the word 'comparable' in the expiry clause.
- Additional or strengthened ESD provisions may be considered by Council through a separate process.
- The publication date of BESS should be removed from the Clause 72.08 Schedule.
- The policy guidelines should not include a statement 'unless otherwise agreed by the Responsible Authority'.
- Transitional provisions are not required for policy commencement as the policy is already operational through Clause 22.17 (Environmentally Sustainable Development).
- The location of other relevant provisions is appropriate, and cross referencing is not required.
- Clause 71.02-3 (Integrated decision making) clearly requires referral authorities to balance competing policy objectives.

The Panel recommends:

22. Amend Clause 15.02-1L (Environmentally Sustainable Development) to align with Council's 'Part C version' subject to:

- using the verb 'encourage' instead of 'achieve' in the strategy relating to best practice to state "*Encourage Best Practice environmentally sustainable development:...*"
- retaining the word 'comparable' in the expiry clause.

23. Remove the date from the reference to *Built Environment Sustainability Scorecard 'BESS'* (Council Alliance for a Sustainable Built Environment 'CASBE') in the Schedule to Clause 72.08 (Background documents), in accordance with Council's preferred 'Part C version'.

12 Other issues

12.1 Environmental and landscape values

(i) What is proposed

The Amendment proposes to include new and translated content relating to environmental and landscape values in:

- the MPS
- Clause 12.01-1L (Biodiversity)
- Clause 12.03-1L (Yarra River, Darebin and Merri Creeks).

(ii) Background and relevant documents

The Planning Scheme Review found in relation to environment policy that the existing Clause 21.07 (Environmental sustainability) makes appropriate reference to biodiversity, flora and fauna protection and protection of water quality.¹⁵²

Clause 12.01-1L (Biodiversity) has been informed by:

- Yarra Environment Strategy 2013 - 2017
- Clause 21.07 (Environmental Sustainability)
- Clause 22.08 (Protection of Biodiversity).

Clause 12.03-1L (Yarra River, Darebin and Merri Creeks) has been derived from:

- Clause 21.07-2 Yarra River, Merri Creek, Darebin Creek.
- DDO1 - Yarra (Birrarung) River Corridor Protection.

Council submitted that the following strategic documents are also relevant:

- Nature Strategy
- *Urban Forest Strategy* (City of Yarra & Urban Forest Consulting, 2017).

(iii) The issues

The issues are whether:

- tree protection is adequate through the Planning Scheme
- the Urban Forest Strategy is adequately addressed in the Amendment, and whether it should be included as a Background Document
- the Nature Strategy should be included as a Background Document
- the target for increasing street tree canopy cover should be increased
- urban heat affects are adequately considered
- policies express a preference for native and indigenous planting
- waterway and habitat corridors are adequately protected from development
- there should be a requirement for a wildlife corridor along one bank of each waterway
- Development Guidelines for the Merri Creek should be included as a Background Document.

¹⁵² Council Report agenda, 26 November 2019, page 6

(iv) Evidence and submissions

Submitters raised issues relating to:

- protection of trees generally and specific trees
- the Urban Forest Strategy, recommending it should be implemented through the Amendment
- need to encourage more trees, particularly in Fitzroy and Collingwood
- in relation to Clause 02.03 (Strategic directions) the target for increasing street tree canopy could be higher for example 100 per cent increase by 2040 instead of 25 per cent
- heat in suburbs is a concern for health and climate change and the need for greening
- support for residents to plan nature strips with indigenous plants without permit
- preference for native and indigenous planting in parks and gardens
- strengthen the references to using local native plants in revegetation works
- corridors should be managed and protected from development
- drip irrigation or storm water harvesting could be used to water trees.

Merri Creek Management Committee (MCMC) submitted:

- biodiversity policy should be strengthened to include references to using local native plants in revegetation work, and references to understorey planting
- Yarra River, Darebin and Merri Creek corridors policy should include a strategy to establish a continuous wildlife habitat, refuge and movement corridor with limited public access, along one bank of each waterway, and *Understanding Planning Issues along the Merri Creek & Policy: Development Guidelines for the Merri Creek* (MCMC, 2004) should be included as a policy document.

In response to issues raised by MCMC, Council submitted:

- Merri Creek is subject to the Environmental Significance Overlay – Schedule 2 (Merri Creek and Environs) which includes various provisions specific to Merri Creek. The decisions guidelines require consideration of the Development Guidelines for the Merri Creek and the views of MCMC (amongst others)
- there are several references to different versions of the Development Guidelines for the Merri Creek in the Planning Scheme, including Clause 21.02 and the Environmental Significance Overlay, and review of several VCAT cases show the document versions are used somewhat interchangeably
- it was not aware of any future work to update the Development Guidelines for the Merri Creek. The Environmental Significance Overlay is not proposed to be changed by the Amendment, and Council does not propose to include the development guidelines as a Background Document.

YCAN made submissions relating to strengthening wording of the biodiversity and waterway corridors policies in recognition of the role of “*a rich biodiversity landscape*” in supporting Yarra’s capacity to respond to global warming.

Council submitted that the extent to which the Amendment could deal with issues raised by submitters it had done so. Council aims to retain trees wherever possible and to manage their condition so they can continue to contribute to the quality of the urban environment.

Council relied on its Tree Removal Guidelines and the Significant Tree Register for guidance on tree protection, and submitted that tree removal is administered through Local Laws rather than the Planning Scheme. A number of street trees and trees in parks are protected by the Heritage

Overlay. It considered submissions relating to specific tree protections and irrigation methods were outside the scope of the Amendment.

Council submitted that the Amendment sought to recognise the Urban Forest Strategy in various provisions including:

- Clause 02.03 (Strategic directions) - Create a healthy and growing urban forest that includes all trees and plants in Yarra, by greening open spaces, streetscapes and buildings; and Reduce the urban heat island effect by increasing the street tree canopy by 25 per cent (from 2014 levels) by 2040
- Clause 12.01-1L (Biodiversity)
- Clause 15.01-2L (Building design)
- Clause 15.02-1L (Environmentally Sustainable Development)
- Clause 18.02-3L (Road system).

In relation to waterway and habitat corridor protection from development, Council considered that the provisions as exhibited were acceptable, and that the issue was addressed through the MPS and Clause 12.03-1L (Yarra River, Darebin and Merri Creek), which were complemented by the Design and Development Overlay 1 (DDO1) – Yarra (Birrarung) River Corridor.

In response to issues raised in submissions, Council proposed the following alternate wording:

- Clause 02.03-2 (Environmental and landscape values)

Maintaining and enhancing habitat connectivity for both flora and fauna is key to improving and safeguarding biodiversity within Yarra and its environs. The majority of indigenous flora and fauna occur along the water corridors with other large reserves such as the ~~Edinburgh Gardens~~ Yarra Bend Park and large canopy trees likely to play a key role in the movement of fauna and providing food and shelter resources.

...

Improve pedestrian and cycle links across the Yarra River and Darebin and Merri Creeks to neighbouring municipalities that enhance the natural environment.

...

- in strategies in Clause 12.01-1L (Biodiversity) to state:

Support development that creates habitats for biodiversity with a balance of native and non-native species (with a preference of native over non-native), through landscaping, tree planting and the incorporation of green roofs and walls.

Promote the planting of indigenous trees and understorey vegetation in open spaces and along roads and railways to provide connections between habitats within Yarra and neighbouring municipalities.

~~Restore and revegetate existing habitats~~ values.

Following exhibition Council sought to include the Nature Strategy and Urban Forest Strategy as additional background documents stating they:

- supported the proposed planning provisions
- were not included in the Explanatory Report or exhibited as part of the Amendment
- were adopted Council documents and available on Council's website.¹⁵³

Council proposed a number of drafting improvements to the proposed provisions.

¹⁵³ Document 125, Council Supplementary Part B Submission, Attachment 4

Ms Ancell recommended the final strategy "*Support development that creates or enhances public access to the Yarra River*" in Clause 12.03-1L (Yarra River, Darebin and Merri Creek corridors) should be removed as it repeats elements from the strategies of Clause 12.03-1R. Council agreed with Ms Ancell.

(v) Discussion

The Panel accepts Council's submission that the Amendment has addressed issues relating to the biodiversity and waterway protection to the extent that it can. The Panel agrees that issues relating to specific tree protections and irrigation methods are outside the scope of the Amendment.

Council has proposed changes to policy wording to strengthen emphasis on indigenous and understorey planting, and the Panel considers this appropriate.

Council clearly articulated how the Urban Forest Strategy is recognised in various planning provisions. The Panel accepts this as the basis for street tree canopy targets. The Panel does not consider it necessary to include the Urban Forest Strategy as a Background Document if the content is reflected in planning provisions. The document was not identified in the Explanatory Report or placed on exhibition with the Amendment, therefore the Panel does not consider it appropriate to introduce as a Background Document. This is consistent with the Panel's approach discussed in Chapter 13.3.

Likewise, the Panel does not support inclusion of the Nature Strategy as suggested by Council as a post exhibition change to the Amendment.

In relation to waterway and habitat corridor protection, the Panel accepts Council's submission that the issue is adequately addressed through the MPS, Clause 12.03-1L (Yarra River, Darebin and Merri Creek), and DDO1 (Yarra (Birrarung) River Corridor). It became evident during the Hearing that the Environmental Significance Overlay also applies to Merri Creek which provides additional protections.

The Panel agrees with Council that it is not necessary to include the Development Guidelines for the Merri Creek as a Background Document, and notes this document is identified in the Environmental Significance Overlay. Further work would be required to assess the merit and determine appropriate planning controls for a continuous wildlife corridor with limited public access along one bank of each waterway as proposed by MCMC.

The Panel understands the focus of YCAN's submission to ensure that planning provisions consider the need for urgent action on climate and are enforceable. The Amendment provides a strong planning policy platform for responding to climate issues.

Council proposed changes to improve wording and respond to issues raised in submissions and evidence. The Panel accepts the majority of these changes, however does not support the addition of the following text to Clause 02.03 (Strategic directions):

Improve pedestrian and cycle links across the Yarra River and Darebin and Merri Creeks to neighbouring municipalities that enhance the natural environment.

The Panel considers the proposed additional text does not add value or provide clarity to the direction.

(vi) Conclusions and recommendations

The Panel concludes:

- Council's approach to tree protections through a combination of Planning Scheme controls such as the Heritage Overlay and local laws is acceptable.
- The Urban Forest Strategy is well represented in the Amendment, including requirements relating to street tree canopy cover and consideration of urban heat affects.
- Any increased target for street tree canopy cover would need to be implemented through a separate process.
- It is not appropriate to introduce the Urban Forest Strategy or Nature Strategy background documents to the Planning Scheme.
- Waterway and habitat corridors are adequately protected.
- The changes proposed by Council to the planning provisions appropriately express a preference for indigenous planting in response to submissions.
- Further work would be required to assess the merit and determine appropriate planning controls for a continuous wildlife corridor with limited public access along one bank of each waterway.
- Development Guidelines for the Merri Creek should not be included as a Background Document

The Panel recommends:

24. Amend Clause 02.03 (Strategic directions) to:

- a) Insert a heading 'Environmental and landscape values' before the heading 'Natural environment'.
- b) Modify the wording in the description to state:
 - *Maintaining and enhancing habitat connectivity for both flora and fauna is key to improving and safeguarding biodiversity within Yarra and its environs. The majority of indigenous flora and fauna occur along the water corridors with other large reserves such as the Yarra Bend Park and large canopy trees likely to play a key role in the movement of fauna and providing food and shelter resources.*

25. Amend Clause 12.01-1L (Biodiversity) to modify the following strategies to state:

- a) *Support development that creates habitats for biodiversity with a balance of native and non-native species (with a preference of native over non-native), through landscaping, tree planting and the incorporation of green roofs and walls.*
- b) *Promote the planting of indigenous trees and understorey vegetation in open spaces and along roads and railways to provide connections between habitats within Yarra and neighbouring municipalities.*
- c) *Restore habitat values.*

26. Amend Clause 12.03-1L (Yarra River, Darebin and Merri Creek corridors) to:

- a) modify the first strategy to state:
 - *Ensure development adjacent to the Yarra River, Darebin Creek and Merri Creek waterways:

 - *Provides a landscaped buffer with indigenous vegetation between the waterway and the development.**

- *Provides opportunities for walking and cycling paths.*
- *Maintains sightlines to the water corridor from the public realm.*
- *Minimises the visual intrusion of development when viewed from the waterway corridors and adjacent public open space, bicycle and shared paths and bridge crossings.*

b) Delete the final strategy which states “*Support development that creates or enhances public access to the Yarra River*”.

12.2 Overshadowing

(i) What is proposed?

The Amendment includes proposed policies to protect open space from overshadowing, including:

- Clause 15.01-1L (Urban design) which includes a strategy to “*Facilitate development: which avoids overshadowing of public open space between 11am – and 2pm on 22 September*”
- Clause 15.01-2L (Building design) includes the following:
 - Strategies:
 - Walls on boundaries – Ensure walls on boundaries avoid adverse impact on the amenity of any adjoining residential properties through unreasonable overshadowing of private open space, visual bulk or loss of daylight to habitable room windows
 - Impact of development of adjoining properties - Avoid impacts on existing adjoining development through: unreasonable overshadowing of secluded open space and loss of daylight to habitable room windows
 - Service equipment - Allow plant rooms, lift over-runs and the like to exceed the height of a building where: it causes no additional overshadowing

Policy guidelines:

- Prevent additional overshadowing of Darebin Creek and Merri Creek between 11am and 2pm on 22 June.
- Prevent additional overshadowing of adjacent public open space.
- Unless specified elsewhere in this scheme, ensure development allows direct sunlight between 10am and 2pm on 22 September to any part of the:
 - Footpath on the southern side of streets oriented east-west in activity centres defined in clause 11.03-1L.
 - Opposite footpath on streets oriented north-south in activity centres defined in clause 11.03-1.

(ii) Background and relevant documents

Key policy sources:

- Clause 22.10 (Built form and design)
- Strategic work undertaken to inform design and development overlays for activity centres.

Existing Clause 22.10 (Built form and design) includes design objectives relating to ensuring new development does not substantially overshadow adjoining residential private open space or public parks and open space and a number of design guidelines. Application requirements include

consideration of shadows cast by any new development on surrounding land between 9am and 3pm on 22 September, but the policy does not establish a time during which objectives or strategies apply.

Existing DDO1 - Yarra (Birraring) River Corridor Protection includes an objective to avoid overshadowing from buildings on the banks and water of the Yarra River, adjacent public open space and paths.

The letter of authorisation from DELWP included the following conditions:

At Clause 12.03-1L 'Yarra River, Darebin and Merri Creek', relocate overshadowing provisions under strategies to policy guidelines at Clause 15.01-2L 'Building Design'.

At Clause 15.01-1L 'Urban Design', relocate overshadowing provision under 'Development adjacent to a public open space' to policy guidelines at Clause 15.01-2L 'Building Design'.

(iii) The issues

The issues are whether:

- it is appropriate to use the equinox when considering overshadowing of open space rather than the winter solstice
- green spaces should have more than five hours of sunlight each day in winter
- the proposed planning provisions adequately protect public open space, public space and private property from overshadowing.

(iv) Evidence and submissions

Several submissions considered the Amendment should protect open space from overshadowing; ensuring new development does not overshadow parks and green spaces, assessing overshadowing on the winter solstice not the equinox and ensuring more than five hours of sunlight per day in winter for green spaces.

Submission 315 considered Council should specify development greater than 9 metres must not overshadow public parks.

Submission 18 was concerned the Explanatory Report stated the test for overshadowing of public open space would be the winter solstice but this was not applied throughout the Amendment.

Submission 103 considered the Amendment should ensure Yarra's tree lined streets, parks, Merri Creek and Yarra River are preserved, maintained, and protected from overshadowing and overlooking by nearby higher rise developments. Submission 196 considered there should be minimal impact from overshadowing of taller buildings on the creeks and Yarra River.

Fitzroy Residents' Association submitted there should be year-round sunlight with no increase in overshadowing for Yarra's open spaces.

Some submissions raised issues with overshadowing adjoining development, streets and footpaths.

In response to submissions, Council proposed to change the time the strategy applies from 11am (as exhibited) to 10am (Part C version) in Clause 15.01-1L (Urban design). Council submitted this was consistent with the body of built form work it had progressed to protect public realm and public open spaces from overshadowing in Yarra's activity centres. Ms Ancell supported this

proposed change and considered it consistent with Council's general approach to built form planning.

Council stated:

It is acknowledged that State government initiated controls provide that buildings and works should not cast additional shadow across public open space adjacent to the Yarra between 11am and 2pm on the equinox. Council considers that an additional hour of solar protection in the morning for other public open space at the equinox is a highly desirable outcome and reflects the time period protected by mandatory controls for key streets in its linear east-west shopping strips.

Although some submissions requested that overshadowing of public open space should be based on the winter solstice, not the equinox, a change to the winter solstice would require further strategic investigation and is out of the scope of this Amendment. Council is aware of the extensive strategic and investigative work which underpinned Amendment C278 to the Melbourne Planning Scheme which proposes winter solstice protection to some of Melbourne's parks and acknowledges that this work has not been undertaken in Yarra.

Council clarified the Explanatory Report refers to the winter solstice for overshadowing of waterways not public open space, in accordance with DDO1 and this is not an error.

In addition to the above, Council proposed in its 'Part C version' of Amendment documents to:

- remove from the strategy in Clause 15.01-1L (Urban design) under the heading 'Development adjacent to public open space':
 - Facilitate development that:
 - Avoids overshadowing of public open space between 11am and 2pm on 22 September
 - ...
- insert a new policy guideline into Clause 15.01-2L (Building design):
 - In relation to adjacent properties and the broader neighbourhood:
 - Avoids overshadowing of public open space between 10am and 2pm on 22 September
 - ...
- relocate from the policy guidelines in Clause 15.01-2L (Building design) to a new strategy in Clause 15.01-1L (Urban design) under a new heading 'Overshadowing':

Unless specified elsewhere in this scheme, ensure development allows direct sunlight between 10am and 2pm on 22 September to any part of the:

- Footpath on the southern side of streets oriented east-west in activity centres defined in clause 11.03-1L.
- Opposite footpath on streets oriented north-south in activity centres defined in clause 11.03-1L.

Council requested the Panel provide advice relating to the appropriateness of using the equinox when considering overshadowing of public open space, compared to the winter solstice.

Ms Ancell was of the view:

a proposal to change to the winter solstice would require further strategic investigations that are outside the scope of the current Amendment, as while this approach may offer greater protection for parks, it would have an impact on many of the existing built form controls which have been modelled on equinox controls and which would require separate detailed investigations. I note that Melbourne Planning Scheme Amendment C278 for sunlight to parks involved significant strategic work and community consultation.

(v) Discussion

It is clear that many submitters value sunlight protection to parks. While some submissions sought no increase in overshadowing year round, the Panel was not provided with any information to assist in understanding whether it would be desirable or possible to avoid any additional overshadowing year round. The Panel considers this beyond the scope of the Amendment.

There is clear policy intent to avoid unreasonable overshadowing of public open space, public spaces and private property. The proposed policies are generally based on sound principles and supported by current strategic work. The Panel agrees with Council and Ms Ancell that further work would be required to consider whether the winter solstice should be used as a reference date for the protection of public open space, other than as currently specified in the Amendment. Any specific requirements relating to overshadowing must be informed by strategic work to establish appropriate objectives and determine appropriate policy provision options. Council advised this work had not been undertaken.

The Panel supports the proposed relocation of the strategy in Clause 15.01-1L (Urban design) to a policy guideline in Clause 15.01-2L (Building design). This is consistent with the letter of authorisation from DELWP and the Panel is surprised that this change was not made before exhibiting the Amendment.

The Panel accepts Council's proposal to change the time period relating to overshadowing of open space from 11am (as exhibited) to 10am (Part C version). Many submitters supported extended protection from overshadowing and it is consistent with Council's most recent work relating to built form and overshadowing.

It is not clear to the Panel how the change proposed by Council to relocate content from Clause 15.01-2L (Building design) policy guidelines to Clause 15.01-1L (Urban design) strategies is consistent with the DELWP authorisation regarding other overshadowing policies, as stated by Council in its 'Part C version' of the policy. For this reason, the Panel does not support the relocation of the policy guidelines regarding shadowing of footpaths.

More generally, the Panel questions whether the policy guidelines in Clause 15.01-2L (Building design) as drafted are consistent with guidance in the Practitioner's Guide. This is discussed more generally in Chapter 13.

(vi) Conclusions and recommendations

The Panel concludes:

- The proposed planning provisions include clear policy intent to avoid unreasonable overshadowing of public open space, public spaces and private property.
- The proposed use of the equinox and winter solstice as exhibited is appropriate and any changes to apply the winter solstice more broadly should be subject to further strategic assessment.
- It is appropriate to avoid shadowing of public open space between 10am and 2pm on 22 September.
- The strategy in Clause 15.01-1L (Urban design) under the heading 'Development adjacent to a public open space' that states "*Avoids overshadowing of public open space between 11am and 2pm on 22 September*" should be relocated to the policy guidelines in Clause 15.01-2L (Building design) and should refer to 10am instead of 11am.

- It is not appropriate to relocate the policy guideline regarding the shadowing of footpaths in Clause 15.01-2L (Building design) to the strategies in Clause 15.01-1L (Urban design).

The Panel recommends:

27. Adopt Council's 'Part C version' of Clause 15.01-1L (Urban design) and Clause 15.01-2L (Building design) as they relate to overshadowing, subject to:

- a) deleting the proposed strategies from Clause 15.01-1L (Urban design) regarding overshadowing of footpaths
- b) retaining the policy guideline in Clause 15.01-2L (Building design) regarding the overshadowing of footpaths as exhibited.

12.3 Licensed premises

(i) What is proposed?

Proposed Clause 13.07-1L (Licensed premises) is a policy neutral translation of existing policy.

The key policy source is Clause 22.09 (Licensed premises).

Licensed Premises Policy – Background Document (Public Place / 10 Consulting Group Dec 2015) is an existing Background Document.

(ii) The issue

The issues are whether Clause 13.07-1L (Licensed Premises):

- provides adequate protections for existing licensed venues
- is appropriately drafted.

(iii) Evidence and Submissions

Council submitted the Planning Scheme Review found there was limited direction in the licensed premises policy. Amendment C209 introduced the current licensed premises policy into the Planning Scheme in February 2018, and this local policy has been translated into the new PPF format. The existing policy includes extensive application requirements which have been recast as strategies and policy guidelines.

Submission 148 considered the Amendment did not provide protection for existing long established bars and pubs.

Two submitters raised issues relating to noise controls from licensed venues.

Ms Ancell did not identify issues with Clause 13.07-1L (Licensed premises). In response to a question from the Panel about whether the policy guidelines were appropriately drafted, Ms Ancell stated they could be redrafted, but did not provide further suggestions.

(iv) Discussion

The Panel accepts the policy is a neutral translation of existing policy. The Panel acknowledges the challenge of translating existing policy into the new PPF format, and notes extensive application requirements have been recast as strategies and policy guidelines. Any further or additional protections would need to be strategically justified and introduced through a separate process.

Issues relating to noise have been discussed in Chapter 10.

The drafting of policy guidelines does not appear consistent with the Practitioner's Guide and should be reviewed before Council adopts the Amendment.

The Panel notes the report to Council seeking authorisation suggested:

An application checklist on the permit application webpage could address the removal of "application requirements" in the new policy.¹⁵⁴

The Panel considers this may be a suitable approach to translating content from existing policy into an appropriate document when the content no longer conforms with planning policy drafting guidance.

The spelling of the policy title should be corrected from 'Licenced premises' to 'Licensed premises'.

(v) Conclusions and recommendations

The Panel concludes:

- The Amendment provides adequate protection for existing licensed venues.
- The drafting of policy guidelines should be reviewed to ensure consistency with drafting guidance.

The Panel recommends:

28. Review the drafting of policy guidelines in Clause 13.07-1L (Licensed premises) before adopting the Amendment, including correcting the spelling of the policy title.

12.4 Caretaker's house

(i) What is proposed?

The proposed Clause 13.07-1L (Caretaker's house) is a policy neutral translation of the existing policy.

(ii) Background and relevant documents

Clause 13.07-1L (Caretaker's house) seeks to protect business by preventing dwellings that are not associated with a business or industry from establishing in industrial and commercial zones where a dwelling is prohibited. The key policy source is Clause 22.06 (Caretaker's house).

(iii) The issue

The issue is whether the wording of Clause 13.07-1L (Caretaker's house) should be changed as proposed by Ms Ancell.

(iv) Evidence and submissions

Ms Ancell gave evidence that some of the existing Planning Scheme policy wording should be retained for the strategy in Clause 13.07-1L (Caretaker's house). She was of the opinion the proposed wording seeks to prevent prohibited dwellings which the zoning controls provide for, and the strategy should be reworded "*Protect business and industry by ensuring that caretaker's houses are legitimately associated with a commercial or industrial use*".

¹⁵⁴ Council report agenda, 26 November 2021, page 11

In response to Further Panel Direction 4, Council submitted:

it is not necessary to identify the land by reference to specific zones as is presently found in Clause 22.06. This is because the objective refers to “industrial and commercial zones where a dwelling is prohibited”. These zones are the C2, IN1 and IN3 zones. If Ms Ancell’s alternative wording for this clause is employed, it will be necessary to make specific reference to these zones to ensure that the policy direction for caretaker’s houses is limited to those in the C2, IN1 and IN3 zones.

(v) Discussion and conclusion

The Panel has reviewed the wording of current Clause 22.06 (Caretaker’s house) and the proposed local policy. The proposed local policy objective has clearly and efficiently combined the content of the current objective and description of where the policy applies. The Panel agrees with Council that the application of the policy is adequately captured in the objective.

The Panel concludes the wording of Clause 13.07-1L (Caretaker's houses) is appropriate as exhibited.

12.5 Flood management

(i) What is proposed?

Proposed Clause 13.03-1L (Flood management) is a new policy.

(ii) Background and relevant documents

The Council report of November 2019 stated that new Clause 13.03-1L (Flood management) aimed to reduce the flood risk brought by heavy rains, and also supported similar direction in Plan Melbourne. The local policy is intended to complement and add to the Special Building Overlay and the Land Subject to Inundation Overlay.

(iii) The issues

The issues are whether Clause 13.03-1L (Flood management):

- should not apply to outdoor additions
- is strategically justified
- is appropriately drafted.

(iv) Evidence and submissions

Submissions 18 and 403 made suggested wording changes to the local policy. Submission 18 suggested the term ‘flood resistance measures’ could be replaced with a reference to the Special Building Overlay to clearly explain the means of implementing a strategy.

Submission 61 considered the policy should not apply to outdoor additions, such as decks or pergolas, and that the policy was unnecessarily creating red tape for minor additions.

Ms Ancell did not raise issues with Clause 13.03-1L (Flood management). In response to questions from the Panel, Ms Ancell stated:

- the new flood policy was targeted at areas not in a Land Subject to Inundation Overlay, but was not aware of the strategic basis of the policy
- she was not sure what the term ‘flood resistance’ meant.

Council considered the proposed local policy justified and appropriate, stating:

This provision has been included to ensure that new development mitigates and adapts to climate change and reduces flood risks. Whilst the Land Subject to Inundation Overlay and Special Building Overlay require flood impact considerations in those areas identified as having flood risks, Council is aware that other sites may need to incorporate flood mitigation measures so that development can minimise its vulnerability to climate change and reduce flood risk.

Council was of the view that a flood management policy is appropriate to support conditions to achieve acceptable development outcomes, and that the proposed local policy is directed to managing localised flood risk.

Council submitted its 'Part C version' of the local policy with proposed wording changes in response to submissions and cross-examination of Ms Ancell.

(v) Discussion

Council did not provide any strategic work underpinning the proposed local policy. The strategic justification for the policy is not clear.

Submitters questioned some of the policy triggers. As it is not clear the exact purpose of the policy and what it is trying to achieve relative to existing State policy provisions, it is not possible for the Panel to know exactly what types of development it should apply to.

The Panel agrees with submitters the term 'flood resistance measures' is not clear.

It may be appropriate for Council to introduce a local flood policy, however further work is required to understand local policy needs and requirements.

(vi) Conclusions and recommendations

The Panel concludes:

- No information was provided to know whether it is appropriate for the flood management policy to apply to outdoor additions.
- The flood management local policy is not strategically justified.

The Panel recommends:

29. Abandon Clause 13.03-1L (Flood management).

12.6 Sustainable transport and car parking

(i) What is proposed?

The Amendment proposes to include new and translated content relating to transport and car parking in:

- the MPS
- Clause 18.02-1L (Sustainable transport) which:
 - introduces a transport hierarchy that encourages walking and cycling over private car use
 - encourages lower car parking rates in new development with an increased focus on active transport.
- Clause 18.02-3L (Road system) which:
 - addresses road and junction reconfiguration to improve reliability and safety for all users

- promotes public realm improvements and addresses access to car parking, vehicle crossings and public transport.
- Clause 18.02-4L (Car parking) which:
 - ensures parking is supplied and managed consistent with promoting sustainable travel
 - sets out circumstances in which parking can be reduced, promotes car sharing and seeks to maintain high levels of pedestrian safety.

The *Parking Management Strategy Action Plan* 2013-2015 is proposed for inclusion in the Schedule to Clause 72.08 (Background documents).

(ii) Background and relevant documents

The Planning Scheme Review found in relation to transport policy that a clearer direction on sustainable transport modes and circumstances for reduced parking should be provided.¹⁵⁵

The proposed local policy is informed by an established position on transport as explained in the *Yarra Strategic Transport Statement* 2006, which prioritises sustainable transport modes.

Council submitted that Clause 18.02-1L (Sustainable transport) is based on Clause 21.06 (Transport) and with new content based on Plan Melbourne, the *Yarra Strategic Transport Statement* 2006, consultation with Council's Advisory Committee, the Inner Melbourne Action Plan.¹⁵⁶

Proposed Clause 18.02-3L (Road system) and Clause 18.02-4L (Car parking) contain largely new content based on Clause 21.06 (Transport).

(iii) The issues

The issues are whether:

- the Amendment adequately encourages sustainable transport and associated infrastructure such as electric vehicle charging
- car sharing conditions and rates should be included in the local policy
- adequate guidance is provided in relation shared pedestrian and cycling trails
- car parking policy is appropriate
- Green Travel Plans are appropriate to include as a policy guideline
- BESS is appropriate to include as a policy guideline in relation to bicycle parking
- the proposed MPS and local policies are appropriately drafted
- the *Parking Management Strategy Action Plan* 2013 – 2015 should be removed as a Background Document.

(iv) Evidence and submissions

Several submitters raised general concerns relating to increased population and increased traffic congestion and inadequate parking, and the need for improved safety and amenity for all forms of transport.

Several submissions raised issues relating to sustainable transport, including:

¹⁵⁵ Council Report agenda, 26 November 2019, page 6

¹⁵⁶ The Inner Melbourne Action Plan is a collaborative partnership between the Cities of Yarra, Melbourne, Port Phillip, Stonnington and Maribyrnong. These inner Melbourne councils work together to strengthen the liveability, attraction and prosperity of the region. (source: Document 125)

- ensure all new developments provide for electric vehicles and sustainable transport options, for example secure e-bike charging and shared electric vehicle bays
- specific rates for provision of electric vehicles
- main commuter trails need to be widened and improved to cater for a growing population.

Submission 376 submitted the policy should recognise the growing use of electric vehicles and support that use by the provision of charging facilities in new developments.

A number of submitters considered there was a need to specify that shared paths should be separated for pedestrians and cyclists. Submission 332 stated shared pathways are becoming increasingly more hazardous for pedestrians and that Council needed to consider how best to manage this increasing problem particularly in areas of open space where bicycle speed seems greater.

Carshare Australia Pty Ltd (GoGet) (Submission 165) supported the sustainable transport policy. It requested greater clarity around implementation and recommended an additional proposed control to incorporate enforceable carshare conditions for new residential developments.

Submissions raised issues relating to car parking including:

- new developments should provide adequate parking
- need to reduce provision and use of cars, while ensuring provision for people with disabilities and delivery
- concern about a reduction in provision for car parking
- requiring all car parking to be paid for by the users and not publicly funded.

Streets Alive Yarra recommended the Amendment eliminate minimum car parking requirements and replace them with maximum car parking limits of one car parking bay per 100 square metres of building floor area. Submission 395 supported Streets Alive Yarra's recommendations, and Submission 255 wanted development restricted if minimum parking is not introduced.

UEM Sunrise raised issues relating to:

- Clause 18.02-1L (Sustainable transport)
 - considers the existing minimum parking requirements of Clause 52.06 are fundamentally inconsistent with the strategies in this proposed policy which seeks to "*encourage lower amounts of car parking within developments*". If Council is seeking to limit the provision of parking in development, the appropriate tool is the Parking Overlay.
 - Green Travel Plans may be a relevant permit condition in some instances however it is not a relevant application requirement or determinant as to whether a development is suitable for approval.
- Clause 18.02-1L (Walking)
 - where policies call for public realm improvements (such as upgraded footpaths, bicycle paths or publicly accessible links through large sites), it should be clear this is in lieu of the Developer Contribution Plan Overlay requirements of the Planning Scheme, as introduced through the gazettal of Amendment C238 on 1 February 2021
- Clause 18.02-1L (Cycling)
 - This policy is inconsistent with the control at Clause 52.34 in terms of bicycle parking provision through the inclusion of BESS as a policy guide.

- Clause 18.04-2L (Car parking)
 - Clarification is needed to confirm if the statement *“Support a reduction in the required number of car parking spaces...”* relates to lower amounts than as outlined at Clause 52.06 or a relevant Parking Overlay, or another intended outcome. It is also unclear if ‘adequate bicycle parking’ is intended to refer to Clause 52.34 or Council’s perceivable intended attempt within the proposed Clause 18.02-1L to increase bicycle parking requirements.

After exhibiting the Amendment, Council proposed to amend Clause 02.01 (Context) to include a reference to ‘separate bike routes’, and suggested removing the date of BESS in the cycling and car parking local policies to be consistent with ESD policy.

Council submitted the Climate Emergency Plan supports car sharing and Council has a Car Share Policy 2019 which outlines support for car sharing and recommends provisions in new major developments. Further work is required to determine rates and condition requirements.

Council submitted Clause 18.02-4L (Car parking) is high level policy, and introducing rates for electric vehicles is outside the scope of this Amendment. Clause 18.02-4L (Car parking) was intended to ensure car parking is supplied and managed consistent with promoting travel by sustainable modes. It submitted that site specific car parking was assessed on a case by case basis as part of a planning permit process and site specific requests relating to car parking provision rates and permits were outside of the scope of the Amendment.

Council advised that submissions raising issues outside of the scope of the Amendment were referred to Council’s Traffic Unit where relevant.

In relation to drafting, the Department of Transport (Submission 14) submitted it may be of benefit to reference the:

- Principle Public transport Network in Clause 2.03
- Principle Bicycle Network, Bicycle Priority Routes and Strategic Cycling Corridors in Clause 18.02-1.

Council responded that, as the Principle Public Transport Network is already referenced in State policy at Clause 18.01, it is considered unnecessary to duplicate. Further, the Principle Bicycle Network is shown on the Strategic Framework Plan at Clause 02.04. It suggested additional references to transport routes could be considered as part of future work.

YCAN submitted suggestions to improve or strengthen the wording of policies, and suggested that public transport should be a higher priority than cycling in the transport hierarchy.

Regarding Clause 18.02-1L (Sustainable transport), Ms Ancell considered the two strategies in walking and cycling that *“Support the upgrade and establishment of paths along the Yarra River...”* should be combined into one strategy in the sustainable transport clause.

The Panel sought Ms Ancell’s views on whether it was appropriate for the following repeated content to sit in both the MPS and local policy:

- Clause 02.03 (Strategic directions) under the heading ‘Transport’:
 - Encourage lower amounts of car parking and increased infrastructure for active transport in developments (such as high levels of bicycle parking and end of trip facilities) to encourage reduced use of private motor vehicles.
- Clause 18.02-1L (Sustainable transport) last strategy states:

Encourage increased infrastructure for active transport in developments (such as high levels of bicycle parking and end of trip facilities).

Ms Ancell was of the opinion the detail of a policy is better to sit in the local policy than the MPS.

In relation to the proposed Background Document, Council submitted the *Parking Management Strategy Action Plan 2013-2015*:

- was not included in the Explanatory Report
- could be removed from the Clause 72.08 Schedule because it is a strategy referred to in the Incorporated Document ‘*Yarra Development Contributions Plan 2017* (HillPDA, April 2019)’.¹⁵⁷

Several submitters suggested changes to the wording of the Amendment. Council did not propose in its ‘Part C version’ of the Amendment documents to make any changes in response to submissions and evidence.

(v) Discussion

The Amendment includes a range of policy provisions to encourage sustainable transport and electric vehicles, such as:

- Clause 18.02-1L (Cycling) includes the strategy “*Encourage the provision of electric bicycle infrastructure*”
- Clause 15.02-1L (Environmentally Sustainable Development) includes the strategy “*Promote the use of low emissions vehicle technologies and supporting infrastructure*”
- Clause 18.02-4L (Car parking) includes policy guidelines “*Electric vehicle infrastructure consistent with the Built Environment Sustainability Scorecard ‘BESS’ (Council Alliance for a Sustainable Built Environment, 2015)*”.

While some submitters asked for stronger provisions with enforceable requirements, this is not the role of the Amendment. Council identified areas where further work would be required to underpin more detailed planning policy and controls. Council indicated that further work is required to determine appropriate rates and conditions, such as for car sharing bays. The Panel is satisfied that the Amendment encourages sustainable transport and associated infrastructure.

Regarding car sharing, proposed Clause 18.02-4L (Car parking) includes strategies to:

Encourage the provision of parking for ride-sharing vehicles, visitors, motorcycles and scooters in larger scale developments.

Encourage the provision of publicly accessible car share bays in major developments.

The Panel considers these policy directions clear and adequate until further work is completed to provide more specific guidance on rates or conditions.

Council resolved to include a reference to ‘separate bike routes’ in Clause 02.01 (Context). The Panel accepts this proposed insertion as the City of Yarra clearly has some separated bicycle routes. The Panel understands submissions relating to separated trails were seeking stronger planning provisions relating to future infrastructure planning and development to ensure safety of pedestrians and cyclists. It is not clear without further work how this may be expressed in the Planning Scheme.

¹⁵⁷ Document 125, Supplementary Part B submission, Attachment 4

The Panel acknowledges the Amendment introduces policy which encourages provision of lower amounts of car parking in new developments. The policy does not state how it relates to existing particular provisions in the Planning Scheme, specifically Clause 52.06 (Car parking) and (Clause 52.34) Bicycle Facilities. The Panel notes that current Clause 21.06 (Transport) states:

Parking availability is important for many people, however in Yarra unrestricted car use and parking is neither practical nor achievable. Car parking will be managed to optimise its use and to encourage sustainable transport options

Council's approach in the Amendment is consistent with current policy and its strategic documents such as the *Yarra Strategic Transport Statement* 2006.

The Panel does not accept UEM Sunrise's proposition that the requirements of Clause 52.06 are fundamentally inconsistent with the Amendment. Clause 52.06 allows a planning permit application to reduce parking requirements. The Amendment establishes policy direction and the Panel does not consider this inconsistent with Clause 52.06. The Panel accepts Council's submission that site specific car parking is assessed on a case by case basis as part of a planning permit process.

The Panel agrees with UEM Sunrise that a Green Travel Plan may not be a relevant application requirement or determinant as to whether a development should be approved. It however disagrees that Green Travel Plans should not be included as policy guidelines. As discussed in other chapters of this Report, policy guidelines provide an example of how a policy objective might be achieved. If a responsible authority is satisfied an alternative approach meets the policy objective, the alternative may be considered. This also applies to the inclusion of BESS in policy guidelines for Clause 18.02-1L (Cycling) which is supported by the Panel.

Consistent with the conclusions in Chapter 11, the Panel supports removal of the date to the reference of BESS.

Issues relating to infrastructure contributions and the relationship with the Developer Contribution Plan Overlay are discussed in Chapter 12.8.

The Panel agrees with Council that it is not necessary to reference the Principle Public Transport Network as this is already included in State policy. The Panel accepts Council's response to the Department of Transport submission.

The Panel understands the transport hierarchy which puts cycling higher than public transport in Clause 18.02-1L (Sustainable transport) is derived from *Yarra Strategic Transport Statement* 2006. The Panel understands the issues raised by YCAN in relation to the hierarchy, however accepts the current hierarchy is based on Council's current strategic work.

The Panel agrees with Ms Ancell that the two strategies she identifies should be combined into one, and that further drafting improvements can be made as identified.

The Panel agrees with Council the *Parking Management Strategy Action Plan* 2013-2015 should be removed from the Clause 72.08 Schedule. The document was not included in the Explanatory Report or exhibited with the Amendment, and as identified by Council it is referenced in an existing incorporated document. The Panel questions if it is appropriate to include as a new background document a report that is identified as being current from 2013 – 2015 in its title. This is consistent with the discussion on background documents in Chapter 13.3.

(vi) Conclusions and recommendations

The Panel concludes:

- The policy adequately encourages sustainable transport infrastructure such as electric vehicle charging.
- It is appropriate to not include car sharing conditions and rates in the local policy.
- It is appropriate to add a reference to 'separated bike routes' in Clause 02.01 (Context) under the heading 'Transport'.
- More detailed guidance relating to future infrastructure planning and development to ensure safety of pedestrians and cyclists may be included following further work.
- The car parking policy is appropriate.
- Green Travel Plans are appropriate to include as a policy guideline.
- BESS is appropriate to include as a policy guideline for bicycle parking.
- The proposed MPS and local policies are appropriately drafted, subject to recommendations in this Report.
- The *Parking Management Strategy Action Plan 2013 – 2015* should be removed as a Background Document.

The Panel recommends:

30. Amend Clause 02.01 (Context) under the heading 'Transport' to state:

- a) *"Yarra benefits from an extensive transport system that includes public transport (train, tram and bus services); a network of arterial roads and local streets; separated bike routes; and a compact urban form and mix of land uses that facilitates walking and cycling."*

31. Amend Clause 02.03 (Strategic directions) under the heading 'Transport' to state:

- a) *Encourage lower amounts of car parking and increased infrastructure for active transport in developments to encourage reduced use of private motor vehicles.*

32. Amend Clause 18.02-1L (Sustainable transport) to

- a) remove the strategy under the heading 'Walking' which states *"Support the upgrade and establishment of paths along the Yarra River, Merri Creek and Darebin Creek and to neighbouring municipalities as identified on the Strategic Framework Plan in clause 02.04"*
- b) relocate the strategy from under the heading 'Cycling' to the heading 'Sustainable transport' which states *"Support the upgrade and establishment of paths and waterway crossings along the Yarra River, Merri Creek and Darebin Creek and to neighbouring municipalities as identified on the Strategic Framework Plan in clause 02.04"*
- c) remove the date reference to BESS in the policy guidelines under the heading 'Cycling'.

33. Amend Clause 18.02-4L (Car parking) to remove the date reference to BESS in the policy guidelines.

34. Amend the Schedule to Clause 72.08 (Background documents) to delete *Parking Management Strategy Action Plan 2013 – 2015*.

12.7 Open space

(i) What is proposed?

The Amendment includes the following provisions relating to open space:

- Clause 02.03 (Strategic directions) Open space
- Clause 19.02-6L (Open space) is an update of the existing policy with new content
- Clause 19.02-6L (Public open space contribution) is a policy neutral translation of existing policy.

(ii) Background and relevant documents

The Planning Scheme Review found in relation to open space policy that any update would need to consider an updated Open Space Strategy.¹⁵⁸

Clause 19.02-6L (Open space) seeks to protect existing open space and increase the quality and quantity of open space. It is an update of the existing policy with new content based on key policy sources:

- Clause 21.04-5 (Parks, gardens and public open space)
- *Yarra Open Space Strategy* (2006).

Clause 19.02-6L (Public open space contribution) is a policy neutral translation of Clause 22.12 (Public open space contribution).

Council submitted that it had prepared Planning Scheme Amendment C286yara which proposes to increase the open space contribution rate from 4.5 per cent to 10.1 per cent for all development to help fund open space for the growing population.

Authorisation to prepare Amendment C286yara included a condition that Clause 22.12 (Public open space contribution) must form part of Amendment C286yara which reflects the new Open Space Strategy and which updates policy and form and content as appropriate.

At its meeting on 20 July 2021, Council resolved to endorse the revised Clause 22.12 (Public open space contribution) policy. Amendment C286yara was on public exhibition until 5 October 2021.

(iii) The issues

The issues are whether:

- the Amendment adequately addresses issues raised by submitters in relation to open space
- the policy dealing with open space land contributions should require that where land adjoins a waterway the requirement should be land added to the waterway corridor
- drafting of Clause 19.02-6L (Open space) is appropriate.

(iv) Evidence and submissions

Issues raised in submissions include:

- more open space should be provided, and associated management plans
- any underutilised private parcels of land should be integrated into open space

¹⁵⁸ Council Report agenda, 26 November 2019, page 24

- laneways should be protected as open space
- small parks should be encouraged in NACs
- pocket parks should be provided for people living in high-rise developments
- parkland is being sacrificed for sporting facilities
- some open space is at capacity, such as Edinburgh Gardens, and will be overwhelmed if apartments are introduced
- public land should not be disposed of and developers should not be able to restrict access to public open space
- proposed policy should mention safety and provision for passive surveillance of open space in the proposed policy
- green spaces should be provided for growing food, urban greening and biodiversity
- maintenance issues and public disorder in laneways and parks
- concern with overshadowing of parks and open space
- developers providing unsatisfactory open space in new development should be required to pay an additional open space contribution equal to 50 per cent of the land value of the development.

MCMC submitted the policy dealing with land contributions should include a reference that where land adjoins a waterway the contribution should be as land which is added to the waterway corridor. General preference for cash contributions should on the Open Space Contribution Plan in some precincts should not apply where the land adjoins a waterway.

Protectors of Public Lands Victoria Inc. (Submission 364) largely supported the Amendment and considered it provides clarity and protection for open space.

Several submitters made suggested changes to the wording of the planning provisions.

Council submitted:

- the Amendment supports the increase and extension of Yarra's open space network
- the adopted Yarra Open Space Strategy 2020 includes recommendations relating to the provision of open space, access, safety, design and management guidelines
- Amendment C286yara proposes to implement the recommendations of the Yarra Open Space Strategy 2020 including increasing the open space contribution rate
- proposed Clause 15.01-1L (Urban design) includes a strategy for development adjacent to open space to facilitate development that *"...Orients windows and balconies to public open space to enhance public safety and the pedestrian experience..."*
- proposed Clause 19.02-6L (Public open space contribution) includes policy guidelines relating to surveillance and visibility of open space
- City of Yarra has an *Urban Agriculture Policy*, however the issues raised are outside the scope of the Amendment.

In response to issues raised by MCMC, Council stated:

Proposed Clause 19.02 Public open space contribution is a direct translation from the existing Clause 22.12 Public open space contribution.

Updates to this policy topic is being pursued through Amendment C286.

Council advised that open space issues outside of the scope of the Amendment were referred to relevant departments within Council.

In relation to drafting Ms Ancell suggested the objective and first and third strategies of Clause 19.02-6L (Open space) should be deleted as these repeat elements of State policy Clause 19.02-6S (Open space).

Council did not support the changes proposed by Ms Ancell.

Council submitted its 'Part C version' of the Amendment documents with proposed minor changes to both local policies, and correction to the name of Clause 19.02-6L to 'Open space' rather than 'Public open space'.

(v) Discussion

Clause 02.03 (Strategic directions) Open space, describes the role and significance of open space and states:

- Aim to provide the community with access to high quality open space within walking distance of their home or work.
- Seek opportunities to improve and extend Yarra's open space network, particularly in areas currently under-provisioned and with projected population increases.

Proposed Clause 19.02-6L (Open space) with Council proposed changes includes the objective:

- To protect and enhance existing public open space and increase the quantity and quality of open space and provide a linked network that meets existing and future community needs.

The Panel supports the changes proposed by Council to the objective and considers this, combined with Clause 02.03 (Strategic directions), adequately respond to community issues relating to adequate provision and access. Other issues are addressed in other parts of the PPF, such as surveillance of open space in Clause 15.01-1L (Urban design).

The Panel agrees with Council many issues raised in submissions are outside the scope of the Amendment. Issues relating to overshadowing are discussed in Chapter 12.2.

The Panel agrees with Council that open space contributions along waterways will need to be addressed through a separate process, and notes Amendment C286yara relating to public open space contributions is in progress.

In relation to drafting, the Panel agrees with the changes to Clause 19.02-6L (Open space) described above, and accepts the heading correction from 'Public open space' to 'Open space'.

The Panel has reviewed the strategies included in State policy Clause 19.02-6S (Open space) and agrees with Ms Ancell the first and third strategies duplicate State provisions and should be deleted from Clause 19.02-6L (Open space).

(vi) Conclusions and recommendations

The Panel concludes:

- The Amendment adequately addresses the issues raised by submitters, subject to minor changes of the wording of Clause 19.02-6L (Open space) combined with other proposed planning provisions.
- Any changes to the local policy dealing with open space land contributions should be addressed through a separate process.

- The drafting of Clause 19.02-6L (Open space) is not appropriate and should be revised in response to the recommendations in this Chapter.

The Panel recommends:

35. Amend Clause 19.02-6L (Open space) to:

- a) replace the heading 'Public open space' with 'Open space'
- b) reword the objective to state:
 - *To protect and enhance existing public open space and increase the quantity and quality of open space and provide a linked network that meets existing and future community needs.*
- c) delete the first and third strategies.

12.8 Development contributions

(i) What is proposed?

Clause 19.03-2L (Development contributions) is a new policy partly based on Clause 21.04-4 (Community facilities, hospitals and medical services).

(ii) The issues

The issues are whether:

- the proposed policy adequately supports the infrastructure needs of Yarra's current and growing population
- developer contributions should be compulsory and used for more green space and community facilities
- Clause 19.03-2L (Development contributions) should be linked to the Developer Contributions Plan Overlay to clarify additional contributions are not sought by this policy.

(iii) Evidence and submissions

Submitters raised issue relating to:

- there is insufficient infrastructure for the current population
- concern the increase in population would result in a diminished amenity and provisions of facilities if development contributions are not adequate
- developer contributions must be compulsory and should not be traded away
- it should be made clear that where policies call for public realm improvements this is in lieu of requirements of the Developer Contributions Plan Overlay
- infrastructure improvements should be mandated with requirements clearly set out upfront.

UEM Sunrise submitted strategies within Clause 19.03-2L (Development contributions) should link to the Developer Contributions Plan Overlay to clarify that additional contributions above the Developer Contributions Plan Overlay are not sought by this proposed policy.

Council submitted that not all public realm improvements associated with the redevelopment of a site are nominated in the Development Contribution Plan Overlay, and that some may be required to ameliorate the impacts of redevelopment. Any exemptions relating to the Development

Contribution Plan Overlay and allowance for works in kind are regulated through other controls and there is no need to qualify in this policy.

Council submitted:

Mandating infrastructure improvements and requirements is outside the scope of this Amendment and is managed through the DCPO.

Proposed *Clause 19.03-2L – Development Contributions* includes strategies to provide new or upgraded infrastructure and to support development that provides contributions towards infrastructure through voluntary contributions.

Council advised:

- on 1 February 2021, Amendment C238yara introduced Schedule 1 to the Development Contributions Plan Overlay into the Planning Scheme.
- Amendment C238yara applies to all land within the City of Yarra and implements the municipal-wide *Yarra Development Contributions Plan 2017* (April 2019)
- the purpose of the Development Contributions Plan is to ensure that the cost of providing new infrastructure in Yarra is shared between developers and the wider community on a fair and reasonable basis
- funds collected will be used to fund nominated capital and community infrastructure projects.¹⁵⁹

In response to UEM Sunrise's submission, Council stated:

- not all public realm improvements associated with a redevelopment will be Development Contributions Plan nominated projects. Some public realm improvements may be required as a result of the redevelopment of a site.
- Council considers any exemptions from the requirements of DCPO1 are appropriately located in the Development Contributions Plan Overlay and it is entirely inappropriate to replicate or reproduce exemptions in policy.

Ms Ancell suggested the first strategy in Clause 19.03-2L (Development contributions) should be deleted as this repeated elements of the objective from Clause 19.03-2S.

Council submitted:

In response to Further Panel Direction 10, Council submits that Clause 19.03-2L remains necessary both to support voluntary contributions as part of a rezoning of land and to support voluntary contributions as part of a permit application where they are not covered by a permit application, for example public art. The content of the policy relates to social and physical infrastructure provision rather than Development Contributions Plans or Infrastructure Contributions Plans and hence properly belongs under Clause 19.03-2S Infrastructure Contributions. It could be retitled Infrastructure Contributions for better alignment with the heading of the associated State policy.

Council's 'Part C version' of the Clause 19.03-2L (Development contributions) proposes to change the clause heading to 'Infrastructure contributions' and to remove the first strategy as recommended by Ms Ancell.

¹⁵⁹ Document 105, Council Part B Submission, para 286 - 290

(iv) Discussion

The Panel understands that Council has implemented a city wide Development Contributions Plan and Overlay through Amendment C238. The Panel accepts this provides an appropriate planning mechanism to fund nominated capital and community infrastructure across the City of Yarra.

The Panel accepts Council's explanation that the policy is intended to complement other planning provisions relating to development contributions. The Panel can see no implications or need for cross referencing to policy relating to the Development Contribution Plan Overlay.

The Panel agrees with Ms Ancell that the first strategy should be removed. The Panel supports Council's proposal to change the heading of the policy to Infrastructure Contributions, and considers this improves clarity of the purpose of the local policy.

(v) Conclusions and recommendations

The Panel concludes:

- Clause 19.03-2L (Development contributions) complements other planning provisions that require development contributions.
- Clause 19.03-2L (Development contributions) appropriately includes strategies to provide new or upgraded infrastructure and to support development that provides contributions towards infrastructure through voluntary contributions, which may include improvements to green spaces and community facilities.
- It is not appropriate to cross reference Clause 19.03-2L (Development contributions) with the Developer Contributions Plan Overlay.

The Panel recommends:

36. Amend Clause 19.03-2L in accordance with Council's 'Part C version' to:

- a) change the title from 'Development contributions' to 'Infrastructure contributions'
- b) remove the first strategy.

12.9 Water sensitive urban design

(i) What is proposed?

The proposed Clause 19.03-3L (Water sensitive urban design) is a policy neutral translation of the existing policy into the new format, apart from one deletion in response to a condition of authorisation.

The condition of authorisation required Council to delete reference to water quality performance objectives as these duplicate content in the *Urban Stormwater Best Practice Environment Management Guidelines* (CSIRO 1999) which are referenced in the policy.

The *Water Sensitive Urban Design Guidelines for City of Yarra Works* (revised February 2016) is proposed for inclusion in the Schedule to Clause 72.08 (Background documents).

(ii) The issues

The issues are whether:

- Clause 19.03-3L (Water sensitive urban design) should be expanded to clarify how Yarra will integrate water sensitive urban design in the public realm, and to include a reference to the City West Water guide
- measures to improve stormwater quality and prevent litter being carried off should be moved to the policy guidelines
- the local policy should reference to the *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999)
- the *Water Sensitive Urban Design Guidelines for City of Yarra Works* should be removed as a Background Document.

(iii) Evidence and Submissions

Submitter 349 considered that the policy needed to be expanded to clarify how water sensitive urban design will be achieved in the public realm, in particular streetscapes, parks and gardens, and how this will be integrated with the Urban Forest Strategy.

The submission included a recommendation to include a reference to the City West Water guide for trees and shrubs adjacent to a water or sewer asset.

In relation to drafting, Ms Ancell recommended “*the examples of measures to improve stormwater quality and prevent litter being carried off being should be moved to the policy guidelines*” in Clause 19.03-3L (Water sensitive urban design). Council did not agree with Ms Ancell because the clauses were drafted in consultation with DELWP officers.

In response to a question from the Panel about whether the proposed policy guideline “*Best practice stormwater management as set out in the Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999)” duplicated State policy, Ms Ancell stated it did not need to be included if it was already referenced in State policy.

In relation to the proposed Background Document Council submitted the *Water Sensitive Urban Design Guidelines for City of Yarra Works* document:

- was not included the Explanatory Report
- is not referred to policy guidelines in the proposed local policy
- could be removed from the Schedule to Clause 72.08 given that it is a policy referred to in the DCP introduced as part of Amendment C238.¹⁶⁰

(iv) Discussion

The Panel agrees with Council that as a policy neutral translation of the existing policy, it is not appropriate to expand the scope of the policy and this would have to occur through a separate process. The Urban Forest Strategy is discussed in Chapter 12.1.

The Panel agrees with Ms Ancell that the examples of measures should be included as policy guidelines rather than as a strategy. The measures provide examples of how the strategies can be achieved. Consistent with the Practitioner’s Guide, these would be more appropriately located in policy guidelines. The Panel suggests:

¹⁶⁰ Document 125, Supplementary Part B submission, Attachment 4

Using measures to prevent litter being carried off-site in stormwater flows, including:

- Waste enclosures and storage bins.
- Litter traps for developments with the potential to generate significant amounts of litter.

The *Urban Stormwater - Best Practice Environmental Management Guidelines* are included in Clause 19.03-3S (Integrated water management) in:

- objectives, stating “*To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 amended*”
- policy guidelines.

The *Urban Stormwater - Best Practice Environmental Management Guidelines* are included as a State policy document in Clause 19.03-3S (Integrated water management). It is not necessary to reference this document in the policy guidelines at local policy Clause 19.03-3L (Water sensitive urban design), as it is already required to be considered by State policy. The Panel considers reference to the *Urban Stormwater - Best Practice Environmental Management Guidelines* should be removed from the local policy.

The Panel notes the *Water Sensitive Urban Design Guidelines for City of Yarra Works* was not included in the Explanatory Report or placed on exhibition with the Amendment. The Panel agrees with Council the reference to this document should be removed from the Schedule to Clause 72.08 (Background documents). This is consistent with the discussion on background documents in Chapter 13.3.

(v) Conclusions and recommendations

The Panel concludes:

- It is not appropriate to expand the local policy as it is a translation of existing policy.
- Measures to improve storm water quality and prevent litter being carried off should be moved to the policy guidelines.
- The local policy should not reference to the *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999) as these are already included in State policy.
- The *Water Sensitive Urban Design Guidelines for City of Yarra Works* should be removed as a Background Document.

The Panel recommends:

37. Amend Clause 19.03-3L (Water sensitive urban design) to:

- a) relocate measures to improve storm water quality and prevent litter being carried off from under the heading ‘Strategy’ to under the heading ‘Policy guidelines’ and revise the wording to state:
 - “*Using measures to prevent litter being carried off-site in stormwater flows ...*”
- b) remove the strategy and policy guideline referencing the *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999).

38. Amend the Schedule to Clause 72.08 (Background documents) to delete *Water Sensitive Urban Design Guidelines for City of Yarra Works* (revised February 2016).

12.10 Waste

(i) What is proposed?

The proposed Clause 19.03-5L (Waste) is a new policy which is supported by the Waste Strategy. The Waste Strategy is proposed for inclusion in Schedule to Clause 72.08 (Background documents).

(ii) Background and relevant documents

The policy aims to make provision for waste, recycling and composting in new development. It supports the *Plan Melbourne* direction of reducing waste and improving waste management and resource recovery.

Key policy sources:

- Clause 22.05-4.3 (Commercial waste)
- Waste Strategy.

(iii) The issues

The issues are whether:

- a new strategy relating to sensitive and discrete location of recycling and waste facilities should be included
- the Waste Strategy should be included as a Background Document.

(iv) Submissions

Council submitted the Waste Strategy is proposed as a Background Document, however was not included in the Explanatory Report and was not exhibited with the Amendment.¹⁶¹

Fitzroy Residents' Association and Submission 323 requested a new strategy be added to Clause 19.03-5L (Waste) to encourage waste and recycling facilities be sensitively and discreetly located. Council agreed this suggestion would be additional content of benefit, and would result in improved and more attractive streetscapes, and this was included in Council's 'Part C version' of Amendment documents.

Submission 26 considered waste associated with developments needs to remain a focus.

Submitter 349 considered that Clause 19.03-5L (Waste) needed to be rewritten to make it clear the policy is relevant to a proposed new development. It was requested that Council explain its policy for managing waste in the public realm and expectations of property owners, specifically how to dispose of hazardous materials.

YCAN made comments on wording of the strategies to have greater consideration of best practice, design, signage, safety, accessibility and lighting.

(v) Discussion

The Panel understand the local policy is intended to guide provision of waste and recycling facilities and considers the focus on new development is clear.

¹⁶¹ Document 125, Supplementary Part B Submission, Attachment 4

The Panel accepts that the new Clause 19.03-5L (Waste) is informed by the Waste Strategy which has been adopted by Council. While the Waste Strategy was not identified in the Explanatory Report or placed on exhibition, it was included in the exhibited Clause 72.08 Schedule. While no submitter raised issues with including the Waste Strategy as a Background Document, the Panel has concerns with including a Background Document that was not exhibited.

The Panel understands the policy content has been derived from the Waste Strategy as well as existing local policy. Clause 19.03-5L (Waste) does not rely on including the Waste Strategy as a Background Document, and reference to it should be removed from the Clause 72.08 Schedule. This is consistent with the discussion on background documents in Chapter 13.3.

(vi) Conclusions and recommendations

The Panel concludes:

- It is appropriate to add a strategy relating to sensitive and discreet location of recycling and waste facilities.
- The Waste Strategy should not be included as a Background Document.

The Panel recommends:

39. Amend Clause 19.03-5L (Waste) to add the following strategy:

- a) *Where possible, encourage waste and recycling facilities are sensitively and discreetly located.***

40. Amend the Schedule to Clause 72.08 (Background documents) to delete *Waste Minimisation and Resource Recovery Strategy 2018-2022.*

13 Form and content

This Chapter is structured to address form and content issues relating to:

- general drafting of the Amendment
- Municipal Planning Strategy
- other provisions.

13.1 General drafting of the Amendment

Council's Part A submission stated the Amendment was consistent with the form and structure of the VPPs and had been drafted with review by DELWP's Smart Planning Team as part of a pilot program under VC148. The PPF is intended to reduce duplication, clarify objectives and strategies, update statistical data and improve the clarity of maps. Local content is also proposed to be moved into relevant particular or operational provisions, as appropriate.

(i) Issues

The issues are whether:

- it is the role of the Panel to review form and content of the Amendment
- the Amendment has been drafted consistent with planning guidance drafting.

(ii) Role of the Panel

Discussion

In response to questions from the Panel to Ms Ancell and Council regarding drafting of the MPS and local policies, Council submitted in its Supplementary Part B submission that:

The role of the Panel is to consider submissions made in relation to the Amendment and make recommendations as it sees fit. Council accepts that there have been wide ranging submissions made in relation to the Amendment and that accordingly, the Panel has a wide remit to consider the substantive content of the Amendment. Council also accepts that where it has introduced new policy content and that content is disputed by a submitter, it is incumbent on Council to demonstrate the strategic basis for that content.

In relation to policy neutral translation, minor updates to policy or more substantial policy changes which are not the subject of submission, Council submits that the role of the Panel is more confined.

Council submitted the observations of the Moonee Valley Planning Scheme Amendment C193 Panel were relevant, which considered its role was to *"consider issues raised in submissions, rather than undertake a broader review of the form and content of the Amendment"*.¹⁶²

The Panel agrees that its remit is to consider issues raised in submissions. A number of submissions raised issues and suggested changes to the wording of policies. In order to consider the issues and suggestions made the Panel turned its mind to the strategic basis of the proposal as well as the intent and expression of the policy. It is appropriate for the Panel to review the Amendment documents in the context of guidance on drafting as detailed in Chapter 2.4. As a significant amendment proposing a rewrite Yarra's local policies it is necessary to ensure that form

¹⁶² Document 125, Council's Supplementary Part B Submission, para 5

and content are consistent with current guidance. The Panel comments on drafting on specific issues discussed in previous chapters, and on general issues in this Chapter.

With reference to the Practitioner's Guide, and the *Ministerial Direction on the Form and Content*, the Panel reviewed the planning provisions with regard to:

- alignment and integration of local policies with State and regional policies
- reducing duplication
- clarifying objectives and strategies
- currency of statistical data
- clarity of maps.

In reviewing the proposed PPF against guidelines, the Panel had a number of observations and questions relating to drafting and consistency that it brought to Council's attention to provide it with an opportunity to respond. Further directions issued by the Panel on 11 October 2021 sought a response from Council in relation to the form and content of specific clauses.¹⁶³

Conclusion

The Panel concludes:

- The Panel can review form and content of the Amendment as it relates to specific and general issues raised in submissions, and with regard to planning guidance on drafting.

(iii) Drafting

Evidence and submissions

In her expert witness statement, Ms Ancell identified the drafting guidance documents she had had regard to in considering whether the Amendment had been drafted correctly. She considered the key tenets of these documents included:

- Templates for PPF clauses that sets out certain text that must be included
- Whether the amendment has regard to Plan Melbourne
- The strategic considerations that must be addressed in the explanatory report
- For the Municipal Planning Strategy, the content that is to be included or excluded, the format the clauses and maps should take, and how the material should link to the rest of the planning scheme and the background documents
- The need to avoid repetition of State and Regional PPF content and material found elsewhere in the planning scheme (e.g. in schedules) in local policy content
- The use of policy guidelines only when necessary
- Evidence-based justification for new planning policies
- A checklist for place-based policies
- The need to exclude conflicting content, non-planning matters, outdated content
- Consistency with the operational provisions of the scheme, any parent provision and any relevant Ministerial Direction
- Avoiding the use of information that is likely to become out of date before the next review cycle (approximately 4 years)
- The use of plain English and the avoidance of ambiguity.

¹⁶³ Document 120

She noted that Council had work closely with DELWP when preparing the Amendment and *“that DELWP had provided detailed feedback on the drafting and its consistency with the practice guidance”*.

Ms Ancell was of the view that the Amendment was consistent with Plan Melbourne and Ministerial Direction 11. She considered the ‘Panel version’ of the PPF accorded with the relevant practice guidance, apart from specific clauses where she recommended changes (as identified and discussed in other chapters of this report). She provided specific comments on the MPS (as included and discussed in Chapter 13.2).

In addition to the changes discussed in other chapters of this Report, Ms Ancell recommended the first objective of Clause 11.03-6L (Victoria Street East Precinct) should be removed as it repeats the objective from Clause 12.03-1R. Council agreed with this suggestion and made this change in its ‘Part C version’ of the local policy.

Several submitters raised issues related to policy drafting, including:

- concern about the key terms used in the built form policy elements, in particular to describe height, with requests for definition of ‘low-scale’, ‘low to mid-rise’, ‘mid-rise’, and ‘taller built form’
- general concerns with imprecise or complex language and a request for use of plain English
- the numbering system of the PPF is confusing – need a clear non-repetitive numbering system
- the text of the Amendment does not always match the intent of the policy rewrite as set out in the Explanatory Report
- the objectives for Yarra are not clear
- request for accompanying guidelines in plain English to support the new policy
- request for definitions of technical terms
- considers the wording of the policy is too weak and allows for too much discretion and concern the policies don’t mandate an outcome
- concern the Amendment had been rushed, is not ready and needed redrafting
- mapping is not clear.

UEM Sunrise submitted:

Much of the language throughout Council’s new policies does not build in flexibility to take unique scenarios into account. For example, the proposed Clause 15.01-1L includes a strategy to *“Adopt a street wall height to the street frontage that is no higher than an adjoining heritage building with an individually significant or contributory grading”*. There may be scenarios or design responses which warrant a varied design response.

Many submissions made specific suggested changes to drafting of the proposed provisions in original submissions and through comments on Council’s Part C planning provisions.

Council submitted the Amendment had been drafted with regard to the Practitioner’s Guide. In response to issues raised in submissions it proposed to:

- replace the term ‘scale’ with ‘rise’ where appropriate
- under the proposed Clause 15.01-1L (Urban design), replace the term ‘adjacent’ in the section *“Development adjacent to land in a Heritage Overlay”* with the word ‘adjoining’.

Council's Supplementary Part B explained further changes proposed in response to issues raised by the Panel in the course of Council's case and evidence and response to the Panel's further directions. Council's Part C submission stated:

- 270. With regard to matters of drafting, formatting and structure, the Part C Amendment documentation has corrected the numbering and structure of the policies.
- 271. Council notes that the MPS continues to be under 5000 words, notwithstanding the additional words from the Council resolution of 3 August 2021.
- 272. Although the Amendment documentation does not expressly reference the deletion of the existing local policy framework, this is clearly intended and a necessary consequence of the Amendment.

Outside of the Amendment process, Council is advocating to DELWP to improve the PPF numbering system.

Discussion

Specific recommendations for changes to the planning provisions as they relate to each issue are discussed in issue specific chapters above. This Chapter deals with general matters relating to form and content.

The Panel observed and provided Council with an opportunity to respond to issues it identified with drafting, including:

- inconsistency with the Practitioner's Guidelines in terms of use of verbs, duplication of clauses, drafting of sections of local policy in particular wording of policy guidelines
- mapping errors and unclear maps
- numbering errors
- inconsistent heading and text styles.

It is understandable there are some inconsistencies in drafting an Amendment of this scale and complexity. The Panel acknowledges the significant work undertaken by Council in refining the Amendment in response to questions and issues raised by submitters and the Panel.

Council advised that some submissions considered the PPF numbering system to be confusing and that a clear non-repetitive numbering system would assist in identifying the relevant statements in each clause. As this requires a change to the VPP, Council is advocating to DELWP on this matter. The Panel agrees that there would be benefit to assigning unique numbers to clauses in the PPF to assist with navigation and referencing and makes no further comment in this Report.

In addition to the recommendations relating to specific issues as detailed in other chapters of this Report, the Panel considers drafting of the Amendment should be reviewed before adoption and submission to the Minister for Planning for approval. The purpose of this review would be to ensure compliance with drafting guidance to maximise clarity and legibility of the planning provisions without changing the intent.

Unless otherwise stated in this Report, the Panel accepts Council's post exhibition 'Part C version' of the Amendment documents, subject to a thorough review of the planning provisions before adoption.

Conclusions and recommendation

The Panel concludes:

- Many drafting inconsistencies have been addressed by Council.

- Before adopting the Amendment, drafting should be reviewed to ensure consistency with drafting guidance and to maximise clarity and legibility of the planning provisions without changing the intent.

The Panel recommends:

41. Review the Amendment documents to ensure consistency with guidance on drafting.

13.2 Municipal Planning Strategy

(i) What is proposed?

The Amendment introduces a new MPS at Clause 02 to the Planning Scheme. The MPS is a translation of the current MSS in accordance with the Smart Planning Program objectives (and includes new content).

Clause 71.01 (Operation of the Municipal Planning Strategy) notes that:

The Municipal Planning Strategy at Clause 02 provides an overview of important local planning issues in an introductory context, sets out the vision for future use and development in the municipality and establishes strategic directions about how the municipality is expected to change through the implementation of planning policy and the planning scheme.

A planning authority must take into account the Municipal Planning Strategy when it prepares an amendment to this planning scheme.

A responsible authority must take into account and give effect to the Municipal Planning Strategy when it makes a decision under this planning scheme.

Chapter 1.1 provides a summary of the content and structure of the proposed MPS at Table 1 and the exhibited Strategic Framework Plan at Figure 1.

(ii) Background and relevant documents

Council submitted that the MPS reflected the extensive background research and strategic planning associated with the preparation of the Amendment. These investigations are discussed in Chapter 3 and are not repeated here.

(iii) The issues

The issues are whether the MPS:

- appropriately reflects the strategic planning work completed by Council
- is acceptable
- should be modified.

(iv) Evidence and submissions

Council submitted that the MPS provided an appropriate foundation for the Planning Scheme and is a succinct statement of Council's planning and land use vision and directions. It acknowledged that compared with the MSS, the new MPS is a more focussed and succinct expression of Council's planning aspirations, which is consistent with the structure and expectations outlined in Amendment VC148.

In accordance with the *Ministerial Direction on the Form and Content of Planning Schemes*, a MPS has a maximum limit of 5,000 words (not including maps). Council said the proposed MPS was within this limit.

Ms Ancell found the MPS generally accords with the relevant practice guidance subject to several minor drafting corrections.

Several submissions suggested detailed and extensive changes to numerous parts of the MPS. For example, FREBCG and the Fitzroy Residents' Association submitted tracked changed versions of the MPS with numerous suggested amendments. The proposed changes ranged from large sections of new text relating to the Australian Constitution, the *Local Government Act 2020*, the need for open and consultative stakeholder engagement and other broad issues. They also included matters of detail correcting minor errors, inconsistencies and changes to language to provide greater clarity. Many of the minor wording changes were acknowledged by Council and supported.

PFN submitted the MPS was “*at odds*” with the 20 minute neighbourhood concept expressed in Plan Melbourne. It wanted greater acknowledgement of climate change and ESD. Like several other submissions, it said the MPS needed to provide greater certainty and clarity regarding a range of matters, including building heights. It also noted that the Strategic Framework Plan should be corrected to show the Fitzroy High School designated as ‘public use’ rather than ‘mixed use’.

The Royal Historical Society of Victoria (Submission 379) had concerns with Clause 02.01 (Context) – Built environment and heritage states:

The existing scale of development within the municipality is mostly characterised by low to mid-rise buildings, with some taller buildings (above 14 storeys) which are anomalies to the mid-rise character.

It submitted:

- this statement implies mid-rise development extends up to 14 storeys
- mid-rise in the Yarra context is much less than 14 storeys
- it was not necessary to specify any particular height and the figure of 14 storeys should be deleted.

On the other hand, UEM Sunrise disagreed with the description of the municipality in the Built environment and heritage section of Clause 02.01.

Mr Nott sought changes to the wording of Clause 02.02 (Vision) to refer to enhanced connections to the Merri Creek as well as the Yarra River.

Save Queens Parade said that the MPS should provide greater acknowledgement of the Wurrundjeri as the original owners of the land now known as the City of Yarra.

Several submissions raised concerns regarding the inconsistency between the designation of the land within the Mixed Use Zone north of Richmond Station (generally bound by Stewart Street, Punt Road, Tanner Street and Botherambo Street) in the Strategic Framework Plan and the Swan Street Activity Centre Plan. This matter is discussed in Chapter 5.

Council submitted that following exhibition and a review of submissions, it was prepared to entertain a number of modifications to the exhibited version of the MPS. At its meeting on 4 August 2021 Council considered submissions to the Amendment, and a number of modifications to the wording of the provisions were suggested for consideration by the Panel.

A summary of the key changes in these documents is presented in Table 10. Council officers proposed a number of typographical corrections, changes to clause numbers and other minor changes to expression to improve clarity and intent which are not documented in Table 10.

Before the Hearing, Council circulated its suggested changes to the Panel and all parties (Documents 16 to 19).

Table 10 Summary of proposed post exhibition changes to planning provisions (Documents 16-19)

Proposed Clause number	Recommended changes to planning provisions	Reason for change
Clause 02.01 (Context)	Under 'Location' modify the first paragraph to state: <u>Yarra stands on the traditional lands of the Wurundjeri people. Yarra acknowledges their creator spirit Bunjil, their ancestors and their Elders. Yarra acknowledge the strength and resilience of the Wurundjeri Woi Wurrung, who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion.</u> Yarra comprises...	Response to submissions
Clause 02.01 (Context)	Under 'Climate change' modify the last paragraph to state: <u>Yarra Council has declared a climate emergency, acknowledging both the scale and urgency of action needed to avoid the catastrophic impacts of global heating. Yarra Council's Climate Emergency Plan 2020-2024 sets out Council's commitments and proposed actions to respond to the climate emergency. Yarra will need to continue to mitigate greenhouse gas contributions emissions and act locally. To mitigate its contribution to climate change, Council has reached zero net emissions from its operations and is seeking to achieve zero net emissions in our community by 2030. Council is proactively seeking to reduce its carbon emissions and is working towards zero net emissions from its operations by 2020. In doing so, Council will contribute to global climate change commitments -as well as national and state targets.</u>	Council resolution
Clause 02.01 (Context)	Under 'Built Environment and Heritage': - delete the first sentence (Yarra stands on the traditional lands of the Wurundjeri people) as it has been relocated to 'Location' - modify the first sentence of the fourth paragraph to state: <u>The existing scale of development within the municipality is mostly characterised by low to mid-rise buildings, (above 14 storeys) with some taller buildings which are anomalies to the mid-rise character.</u>	Council resolution

Proposed Clause number	Recommended changes to planning provisions	Reason for change
	<ul style="list-style-type: none"> - modify the last paragraph to state: <i>The large public housing estates provide a contrasting built form character of <u>high-rise</u> apartment buildings set in landscaped grounds.</i> 	
Clause 02.01 (Context)	<p>Under 'Economic development' modify the second sentence of the first paragraph to state:</p> <p><i>Contributing to this is Yarra's industrial heritage building stock, transport connectivity, inner-city lifestyle, <u>night-time economy</u>, access to open space and the Yarra River.</i></p>	Council officer suggestion
Clause 02.01 (Context)	<p>Under 'Transport' modify the first sentence of the first paragraph to state:</p> <p><i>Yarra benefits from an extensive transport system that includes public transport (train, tram and bus services); a network of arterial roads and local streets; <u>separated bike routes</u> and a compact urban form and mix of land uses that facilitates walking and cycling</i></p>	Council resolution
Clause 02.02 (Vision)	<ul style="list-style-type: none"> - Delete the introduction: <i>The vision in the Yarra City Council Plan and Community Health and Wellbeing Plan 2017-2021 is for the municipality to be:</i> <i>A vibrant, liveable and sustainable inner city that the community can be proud of.</i> and replace with: The Yarra 2036 Community Vision statement: <i><u>Yarra is a vibrant, safe and inclusive environment. We celebrate and embrace our diversity and connection to each other and the land. Our community is empowered to work together and support one another with respect and trust.</u></i> - Modify the third last sentence in the spatial vision for the municipality to state: <i>Landscape and natural assets will be well managed, with enhanced connections to the Yarra River <u>waterway</u> corridors and its their surrounding parks and recreation areas.</i> 	Council resolution and response to submissions
Clause 02.03 (Strategic directions)	<p>Under 'Natural environment':</p> <ul style="list-style-type: none"> - modify the second sentence of the first paragraph to state: <i>The majority of <u>indigenous</u> flora and fauna occur along the water corridors with other large reserves such as the Edinburgh Gardens <u>Yarra Bend Park</u> and large</i> 	Response to submissions and Council resolution

Proposed Clause number	Recommended changes to planning provisions	Reason for change
	<p><i>canopy trees likely to play a key role in the movement of fauna and providing food and shelter resources.</i></p> <ul style="list-style-type: none"> - Modify the third dot point to state: <i>Improve pedestrian and cycle links across the Yarra River and Darebin and Merri Creeks to neighbouring municipalities <u>that enhance the natural environment</u></i> 	
Clause 02.03 (Strategic directions)	<p>Under 'Climate change':</p> <ul style="list-style-type: none"> - modify the fourth dot point to state <i>Reduce the urban heat island effect by increasing the street tree canopy by 25% (from 2014 levels) by 2040.</i> - modify the fifth dot point to insert an additional point: <i><u>Reduced greenhouse gas emissions</u></i> 	Council officer suggestion and Council resolution
Clause 02.03 (Strategic directions)	<p>Under 'Built environment and heritage':</p> <ul style="list-style-type: none"> - modify the second paragraph: <i>Protecting <u>Conserve and enhance</u> heritage buildings...</i> - modify the second dot point: <i>Protect, c<u>Conserve and enhance the municipality's</u> highly valued...</i> 	Council officer suggestion following consultation with GJM Heritage
Clause 02-04 (Strategic framework plan)	Modify the plan to show the area north of Richmond Station with a hatching designating 'future strategic work' in accordance with recommendations in Amendment C191 Panel Report ¹⁶⁴	Response to submissions

In response to evidence and questions from the Panel, Council proposed several additional changes to the MPS. These were generally focussed around the evidence of Mr Gard'ner regarding a range of heritage related matters and included changes to Clause 02.03 (Strategic directions) including:

- an additional paragraph under the heading Activity centres stating:
These activity centres generally contain highly valued streetscapes and commercial buildings included on the Heritage Overlay and must balance the requirements for growth with the retention of heritage significance.
- minor modifications under the heading Built environment and heritage including:
 - references to 'heritage places' rather than 'heritage buildings'
 - references to 'post-contact' heritage rather than 'European' heritage
 - the addition of two new sub-points under the dot point 'Respect Yarra's distinctive features and landmarks' that state:
Historic commercial buildings including banks, hotels and post offices; and
Historic street and laneway fabric and infrastructure.

¹⁶⁴ Document 19 does not show any change to the Strategic Framework Plan although a tracked change associated with the page indicates that this change had been made.

- various drafting changes regarding the numbering and naming of clauses.

These changes were expressed in Council's Part C submission (Documents 209 and 243). Further discussion on these matters is in Chapter 8.

Council agreed that the following changes to the Strategic Framework Plan were appropriate:

- correcting the designation of the Fitzroy High School from 'mixed use to 'public use'
- modification of the boundary of the Rathdowne Street Local Activity Centre¹⁶⁵
- modification of the legend to refer to 'low rise' rather than 'low scale'.¹⁶⁶

Council ultimately did not agree that the land north of Richmond Station should be designated on the Strategic Framework Plan as 'future strategic work' (with a corresponding hatching or colour in the legend) because *"the detail is too fine to include on a map of the entire municipality."*¹⁶⁷

(v) Discussion

The Panel accepts the MPS generally reflects the extensive work completed by Council and provides a sound foundation for the proposed local policies. The new MPS format requires a more succinct version of the MSS and the Panel acknowledges that this has frustrated many submitters who would prefer to have more detail and prescription. The Panel considers that the content of the MPS is appropriate and fit for purpose. The MPS is meant to be an overarching summary of the key issues and strategic directions that are expanded on within the local policies, and reflected in zones and overlays.

Several submissions suggested alternative wording in the MPS. Some submissions used different words to express similar, although slightly different, meanings. It is possible that the MPS could be written differently, however the Panel considers that the version proposed by Council is acceptable.

The MPS is consistent with State and metropolitan planning policy, including the 20 minute neighbourhood concept expressed in Plan Melbourne. The City of Yarra includes many activity centres of varying scale as well as significant employment, social and public transport infrastructure. The municipality is extremely well serviced by a wide range of facilities and infrastructure and this is articulated in the MPS.

The range of changes proposed by Council are generally appropriate and reflect issues raised in submissions, evidence and questions from the Panel. Where necessary, further discussion on some of the proposed changes has been made in previous chapters of this Report.

The range of minor modifications proposed by Council improve the clarity and intent of the text and are appropriate. The Panel supports the proposed changes to the Clause numbering, headings and other administrative changes to accord with the *Ministerial Direction on the Form and Content of Planning Schemes*.

The Panel considers that Clause 02.01 (Context) under the heading Climate change should be modified to delete the sentence *"Yarra Council's Climate Emergency Plan 2020-2024 sets out Council's commitments and proposed actions to respond to the climate emergency"* because any relevant policies from this document should be directly included in the Planning Scheme. Further

¹⁶⁵ Refer chapter 5 for further discussion of this issue

¹⁶⁶ Refer chapter 6 for further discussion of this issue

¹⁶⁷ Document 209

the Climate Emergency Plan was not identified in the Explanatory Report or exhibited as part of the Amendment. It would also be inappropriate to include a document that has the potential to be out of date within a relatively short time period (2024) relative to the likely introduction of the MPS. The Panel is of the view the Climate Emergency Plan should also be removed from the Clause 72.08 Schedule as discussed below.

The Panel considers it is appropriate to designate the land north of Richmond Station as 'future strategic work' with a corresponding hatching or colour in the legend. Further discussion regarding this issue is included in Chapter 4.

(vi) Conclusions and recommendations

The Panel concludes:

- The MPS is based on strategic planning work completed by Council and is generally supported.
- The MPS has been prepared in accordance with the required format, subject to the minor administrative changes proposed by Council.
- The range of changes to the MPS proposed by Council are generally acceptable except that:
 - Clause 02.01 should not include reference to the document *Yarra Council's Climate Emergency Plan 2020-2024*
 - consistent with Chapter 4, Clause 02.04 should not designate the land located within the Mixed Use Zone and bound by Botherambo Street, Tanner Street, Punt Road and Stewart Street in the Swan Street Activity Centre. The area should be designated 'Land subject to future strategic work'.

The Panel recommends:

42. Amend Clause 02.01 (Context), Clause 02.02 (Vision) and Clause 02.03 (Strategic directions) in accordance with the Panel preferred versions in Appendix E.

43. Amend Clause 02.04 (Strategic Framework Plan) to:

- a) show land within the Mixed Use Zone north of the Richmond Station bound by Botherambo Street, Tanner Street, Punt Road and Stewart Street as not included within the Swan Street Activity Centre, and show the area as designated 'Land subject to future strategic work'
- b) designate Fitzroy High School as 'Public Use'
- c) change the boundary of the part of the Rathdowne Street Local Activity Centre around the intersection of Rathdowne Street and Richardson Street to show only the properties on the north east and south east corners of the intersection within the Activity Centre
- d) modify the legend to refer to 'Low Rise Residential' instead of 'Low Scale Residential'.

13.3 Other provisions

(i) Clause 52.28 (Gaming)

One submission sought to remove the ability to approve any new gaming venue in Yarra. Council responded the existing Clause 22.15 (Gaming) had been directly translated across to the new

Particular Provision. This was a requirement of the PPF translation format. The request is outside of the scope of the Amendment.

The Panel accepts Council's position that the issue raised by the submission is outside of the scope of the Amendment.

(ii) Background documents (Schedule to Clause 72.08)

Evidence and submissions

Ms Ancell identified the new background documents proposed for inclusion in the Clause 72.08 Schedule as:

- Activity Centres Report
- Housing Strategy
- Noise Discussion Report
- Landmarks and Views Assessment
- Residential Heritage Policy Review
- Industrial Heritage Policy Report
- Affordable Housing Strategy
- Nature Strategy 2020-2024
- Climate Emergency Plan.

Ms Ancell stated she was of the view the proposed background documents are suitable for inclusion, with reference to PPN13 which provides guidance on when it is useful to include a reference document. She stated:

I also understand that the list of background documents is larger than the list of reference documents currently in the planning scheme, both as a result of the insertion of new documents ... and to accurately list the full range of existing documents Council has drawn on in preparing the Amendment.

Ms Ancell noted the table in the Clause 72.08 Schedule:

will need to include the Amendment number before each clause reference in the right hand column to accord with the Ministerial Direction on the Form and Content of Planning Schemes, and that the four background documents included in the current version of the planning scheme relating to the Yarra River will need to be inserted into the updated table.

In response to the Panel's further directions relating to background documents, Council provided a detailed table in its Supplementary Part B submission which *"identifies each of the background documents to be introduced, explains the basis for their inclusion, notes whether they were exhibited and provides details of any proposed post exhibition changes"*.

Council's 'Part C version' of the Clause 72.08 Schedule proposed many changes including the removal of some documents and the addition of many documents that were not included in the exhibited version of the Clause.

In response to a question from the Panel whether it is appropriate to include background documents that have not been exhibited, Council made reference to parent Clause 72.08 which states:

A background document may:

- Have informed the preparation of, or an amendment to, this planning scheme.

- Provide information to explain the context within which a provision has been framed.
- Assist the understanding of this planning scheme.

Council submitted it was satisfied that all documents in the 'Part C version' of the Clause 72.08 Schedule met this description. Further all of the documents were publicly available on the Council website.

Discussion

There was considerable confusion at the Hearing about background documents. The list of background documents included in the Explanatory Report differed from those identified in Council's Part A submission and the exhibited version of the Clause 72.08 Schedule. Council attempted to resolve the discrepancies in its 'Part C version' of the Clause 72.08 Schedule.

The detailed table prepared by Council assisted in understanding the status and process undertaken for each proposed Background Document.

It is unfortunate that the exhibited version of the Clause 72.08 Schedule did not include many existing reference documents listed in the Planning Scheme. While not ideal, as a policy neutral translation the Panel accepts these should be included in the Clause 72.08 Schedule.

The Panel has concerns about including background documents in the Clause 72.08 Schedule if they are not already referenced in the Planning Scheme and they were not exhibited as part of the Amendment.

As referenced by Ms Ancell, PPN13 provides guidance that:

- background documents can be mentioned in the Planning Scheme if they provide useful information in understanding the context for a policy and/or provision
- there is no need to refer to a document in the Planning Scheme if the substantive elements of it have been included in the MPS, PPF or a schedule, unless it contains additional useful information.

It is not essential to include documents that provide background and context to existing policy content.

PPN13 provides guidance that a Planning Scheme amendment is required to introduce or change the name of a Background document, and the document must be publicly available and the Explanatory Report must clearly explain the document is not proposed to be incorporated into the Planning Scheme.

The Panel is of the opinion that only background documents that were included in the Explanatory Report and exhibited should be included in the Clause 72.08 Schedule.

Council's Part A submission included two documents proposed for inclusion following exhibition of the Amendment, specifically the:

- Climate Emergency Plan, in response to a Council resolution
- Nature Strategy, in response to issues raised in submissions.

Whether it is appropriate to include these documents is discussed in other chapters of this Report.

The Panel agrees with Ms Ancell that the Clause 72.08 Schedule must include a reference to the Amendment number which introduced each document to comply with the Ministerial Guidelines on Form and Content of Amendments.

Issues relating to other background documents are discussed in other chapters of this Report.

Conclusions and recommendations

The Panel concludes:

- It is acceptable to include as background documents existing reference documents that were not included in the exhibited Clause 72.08 Schedule.
- It is appropriate to include new background documents that were included in the Explanatory Report and exhibited with the Amendment in the Schedule to Clause 72.08, subject to other recommendations in this Report.
- The Clause 72.08 Schedule must include a reference to the Amendment number which introduced each document.
- The Clause 72.08 Schedule should be thoroughly reviewed to ensure it contains an accurate list of background documents before adoption.

The Panel recommends:

- 44. Review and update the Schedule to Clause 72.08 (Background documents) to ensure it contains an accurate list of background documents before adoption.**
- 45. Update the Schedule to Clause 72.08 (Background documents) to include the Amendment number for each document.**

Appendix A Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Mark Ryan	216	Anne Harari
2	Madelene Alford	217	Leigh Prendergast
3	Angela Munro	218	Tina Morgan
4	Alan Rattray-Wood	219	Mallory Brown
5	Fay Maglen	220	Edwin Harari
6	Maree Nihill	221	Monica Bolt
7	Thomas Tyrrell	222	AFADA
8	John Di Stefano	223	Fiona Newton
9	Katherine Kennedy	224	Jeremy Welton
10	Victor Soo	225	Peter Lazzaro
11	Rosarita Pantaleo	226	Ann Shenfield
12	Terrance Nott	227	Janet Christie
13	Megan O'Brien	228	Ryan Carters
14	James Noy (Department of Transport)	229	Julie Mitchell
15	Monika Zuscak (EPA)	230	Melissa Marino
16	Natasha Palich (CASBE)	231	Sally Vivian
17	Nia Kolokas (Moreland City Council)	232	Todd Perry
18	Josephine Lee	233	James Jarrous
19	Jeremy Lawrence (Streets Alive)	234	Terence Nott
20	Jon & Jude Sullivan	235	Joseph Cox
21	Charlotte Clemens	236	Angela Trowbridge
22	Cas Stingel	237	David Murray
23	Lisa Byrne	238	Jo Evans
24	Michelle Burns	239	Clive Evans
25	Lisa Greenwood	240	Bruna Evans
26	Libby Bobeff	241	Kathryn Culmsee
27	Judy Holden	242	Peter McPhee
28	Jane Miller	243	Anthony and Susan Browne

No.	Submitter	No.	Submitter
29	Steve Dower	244	Rebecca Love
30	Phillip Burnham	245	Wendy Pollard
31	Lee Ewing	246	charlotte Allen
32	Annabel Pollard	247	Stephen Campbell
33	Garry Morris	248	Jennifer Freshwater
34	Rosalba Fogliani	249	David Jardine
35	Meg Montague	250	Trudy Jones
36	Geoffrey Smith	251	Barbo Roberts
37	Helen Barnes	252	Simon Evans
38	Kris Courtney	253	Anastasia Morritt
39	William Robb	254	Isabelle Glinka
40	Katherine Lee	255	Peter Stahle
41	Kaye Elias	256	Heather Barton
42	Deidre Williamson	257	Jennifer McKeagney
43	Lee Glezos	258	Jane Begg
44	Glynn Elias	259	Vincenzo Gaglioti
45	Andrew Wolf	260	Luisa Macmillan (MCMC)
46	Rena Pritchard	261	Margaret Power
47	Claudia Hull	262	Wendy Suiter
48	Susan Mahar	263	Lina Kamboukos
49	Marcia Lewis	264	Tony Kamboukos
50	Lucy Wirtz	265	Pam and Andrew Saunders
51	Tegan McCarthy	266	Stephen McCulloch
52	Sandra Jeffries	267	Giselle Darling
53	Kym Prentice	268	Miranda Sharp
54	Anthony Moore	269	Steve Earl
55	Matthew Edge	270	Roz Zalewski
56	Rebecca Lloyd	271	Helen Cherry
57	Maria Liberogiannis	272	Max Cherry
58	Leticia Nieuwenhuizen	273	Sue Bradshaw
59	Fred Pugsley	274	Pierre Prentice
60	Christobel Botten	275	Rod Quantock
61	Bryony Callander	276	Matt Pearce

No.	Submitter	No.	Submitter
62	Marion Marshall	277	Ian Aw
63	Andrew Suddick	278	Richard Duncan
64	Kerry Brennan	279	Carol Pelham
65	Guat Kin Chew	280	Randall Bradshaw
66	Hamish Clark	281	Michael and Hilary Neill
67	Rodney Pemberton	282	Jennifer Spinks
68	Timothy Mahar	283	Pamela McLure
69	Barbara Robb	284	Lexie and Brian Hesketh
70	Julie Phillips	285	Sivy and Anthony Orr
71	Mikela Dalrymple	286	John Telfer
72	Dena Kahan	287	Rodney Ellis
73	Simon Ryan	288	Hilary Heslop
74	Margaret Goding	289	Ande Bunbury (YCAN)
75	Lucie Gill	290	Anthony Lehmann
76	Carolyn Rolls	291	Molly Hunter
77	Kate Hutchison	292	Virginia Noonan
78	Zoe O'Mahoney & Isobel Monsborough (Port Phillip Council)	293	Justin Francis
79	Susan Peirce	294	Mark Davis
80	Rod Harris	295	David Collins
81	Daniel Ingvarson	296	Linda Young
82	Margaret Harrison	297	Mitchell Shaw
83	Sarah Mathers	298	Stewart Morritt
84	Brian Dixon	299	Maura McCabe
85	Heather Dalton	300	Tony Kruger
86	John Potts	301	Martin Brennan
87	Christine Wirtz	302	Fitzroy Residents' Association
88	Kirsty Richards	303	John Sinclair
89	Tim Gatehouse	304	Georgie Withers
90	Margaret Cross	305	Catherine Barker
91	Michael Bullen	306	Anne Mullins
92	David James	307	Lynne Leveson
93	Angela Zivkovic	308	Carol Harvey

No.	Submitter	No.	Submitter
94	Barbara Hall	309	Wendy Robison
95	David Authier	310	Helen Mildred
96	Nicole Smith	311	Anne Coveny
97	Madelyn Cotton-Kinch	312	Collingwood Historical Society
98	Silvia Grande	313	Nola Read
99	Llewella Bates	314	Nicole Symington
100	John Inglis	315	Robin Room
101	Dechen Khadro	316	Jeni Lockhart
102	Rebecca Fergus	317	Sarah James
103	Marianne Van Leeuwen	318	Eric Meadows
104	Shannon Curley	319	Juliana Hooper
105	Simon Cox	320	Belinda Quantock
106	Susan Standring	321	Raymond Endean
107	Grant Filipoff	322	Nicole Diamond
108	Caroline Rebaque	323	Margaret Portelli
109	Neil Staton	324	Riseheath Pty Ltd.
110	Michelle Edwards	325	Alison Dewan
111	James Weda	326	Emily D'Cruz
112	Elizabeth Graham	327	Margot Kiddle
113	Paul Thompson	328	Jennifer Dane
114	Esperanza Torres	329	Ernesto Arriagada
115	Bridget Carbines	330	Kristen Muir
116	Gavan Blau	331	Andrew Nicholls & Sharryn Carey-Nicholls
117	Mark Chell	332	Julian Gardner
118	Catherine Gaal	333	Ian Hall
119	Bruce Hartnett	334	Felicity Watson (National Trust of Australia)
120	Greg Rodwell	335	Robert Follis
121	Christopher hope	336	Sally Tonkin
122	Fran Wilson	337	Philomena Murray
123	Geoff Lacey	338	Annette Tepper
124	Angie Atkins	339	Peter Brace (Yarra Primary School)

No.	Submitter	No.	Submitter
125	Ciarán Geoghegan	340	Jana Stewart
126	Brendan Mitchell	341	Jane Polesel
127	Terry Walsh	342	Joseph Piedimonte (Piedimonte Developments)
128	Andrea Harris	343	Patricia and Don Edgar
129	Mark Soffer	344	Tracey Bradley
130	Clare Morton	345	Chloe Hopper
131	David Robson	346	Diana Willshire
132	Rosemary Adams	347	Sophie Smith
133	Juliet Francis	348	Jenny Rizzo (Gore Street Group)
134	Catherine Lambiris	349	Greg Spark
135	Anna Wolf	350	David Young
136	Catherine Whitty	351	Candice Charles
137	Ranko Cosic	352	Anne Holmes
138	Ben Mior	353	Janet Jukes
139	Dominic Zampogna	354	Lily Baxter
140	Timothy Kiddle	355	Sally Heath
141	Hamish Ewing	356	Coco Landini
142	Penny Gray	357	Susan Hunt
143	Enrico Cementon	358	Roslyn & Owen Beaton
144	Prue Gillies	359	John Lee
145	Trevor Bolt	360	Heather Stock
146	Sarrah Coffey	361	Lou Scally
147	Adam Promnitz	362	Andrew Atchison
148	Leigh Burchat	363	Patsy Yaksender
149	Nadia Cavallin	364	Fiona Bell
150	Madeleine Yewers	365	Matthew Potter
151	Debra Thorpe & Lindsay Round	366	Branwell Travers
152	Belinda Nemec	367	Diana Courtney
153	Tracey Rankin	368	Anna Thomas
154	Cheryl Apperley	369	Judy Pile
155	Maggie McCormick	370	John Baxter
156	Mark Storey	371	Rob Sweetten

No.	Submitter	No.	Submitter
157	Keith McHugh	372	Glen McCallum (Protect Fitzroy North Inc.)
158	Keiko Murakami	373	Margaret Barca
159	Shira Nahari	374	Jennifer King
160	Janet Hall	375	Trish Jelbart
161	Alan Heard	376	Helen Cochrane
162	Christopher Boutsinis	377	Anne Horrigan-Dixon
163	Mary E Kenneally OAM	378	Ian Hammet
164	Gerald Douglas	379	Ian Wight (Royal Historical Society of Victoria)
165	Darcy Lechte (GoGet Carshare)	380	Brad Marsh
166	Peter Lowings	381	Theresa Saldanha
167	Cara Pilkington	382	James Borg
168	Gayle Lofhlem	383	Sundhya Pahuja
169	Mark Robertson	384	Ida and Rainer Schmid
170	Judy Robertson	385	A Donaldson
171	Margaret O'Brien and Greg Spark	386	Leonie Katekar
172	Susan Zeitz	387	Mitchell Shaw
173	Chinchote Luengamonphaisan	388	Terry Keon
174	Robbie McKenzie (Ratio)	389	Daniel Springer
175	Diana Carroll	390	Andrew Hansen
176	Louise Hain	391	Pete Markey
177	Michael Phillipson	392	Timothy Neilson
178	Linda Woo	393	Jenny Cassidy
179	Jane Hanna (Stonnington Council)	394	James Yewers
180	Suzanne Lewis	395	David Balding
181	John Pilkington	396	The 3068 Group Inc
182	Carmel Moorhead	397	Gemma Denton
183	Louise Grant	398	Matthew Armstrong
184	Simon Chambers	399	Bruce Lavender
185	Penny Rattray	400	Miranda Hill
186	Luna Vieira	401	Chris Gerach
187	Monica Woolmer	402	Judith Macdonald
188	Aude Sowerwine-Mareschal	403	Louise Elliot and Greg Hocking

No.	Submitter	No.	Submitter
189	Elizabeth Lightfoot	404	Lucy Feagins
190	Mary Atchison	405	Carol Jasen
191	Tim Dewan	406	David Brant
192	Jane Cameron	407	Aydin Keyvanloo
193	Jo-Anne Hook	408	Dave Ponsford
194	Graeme Prior	409	Joe Grech (Human Habitats)
195	Lyn Harper	410	Alison Angleton
196	Margaret Goding (Save Queen Parade)	411	Michael Phillipson
197	Heather Wallace	412	James Rankin (Salta Properties)
198	Stuart Stapely	413	Chris Friday
199	Kathryn James	414	Annette Helsing
200	Ann Taket	415	Kerry Merriman
201	Cath Mackenzie	416	James Burton (Human Habitats)
202	Andrew Bullen	417	Henry Quinn
203	Catherine Heng	418	Clare Field (Tract)
204	Susan Marino	419	Anne Barrie
205	Gabrielle Pound	420	UEM Sunrise (Collingwood Development) Pty Ltd
206	Billie Giles-Corti	421	Michael Roof
207	Andrew Kerr	422	Brigid Potter
208	Sally Romanes	423	Hannah Potter
209	Emma Davies	424	Vu Nguyen
210	Robert Owen & Suzanne Hampel	425	Richard Boaden & Marina Paleologoudias
211	David Schnall	426	Tina Haynes
212	Catherine Dunlop	427	Domenica Isgro
213	Sarah Darmody	428	Frank Harte
214	Miriam Patterson	429	David Hickey (SJB)
215	Matthew Walker		

Appendix B Parties to the Hearing

Submitter	Represented by
Yarra City Council	Susan Brennan SC and Jane Sharp of Counsel, instructed by Briana Eastaugh of Maddocks, who called the following expert evidence: <ul style="list-style-type: none"> - Jim Gard'ner from GJM Heritage on heritage - Sarah Ancell from Echelon Planning on planning - Leanne Hodyl from Hodyl & Co on landmarks and views - Jim Antonopoulos from SLR on noise and acoustic considerations - Julian Szafraniec from SGS Economics on Economics and capacity.
Yarra Planning Coalition (YPC)	David Young, who called the following expert evidence: <ul style="list-style-type: none"> - Elizabeth Vines OAM on sustainability, heritage, city planning - Nigel Lewis on heritage - Jim Holdsworth on architecture and urban design
Riseheath Pty Ltd	Marita Foley SC instructed by Norton Rose Fulbright
UEM Sunrise (Collingwood Development) Pty Ltd	Nicholas Tweedie SC and Jordan Wright, instructed by Sarah Thomas of SJB Planning Pty Ltd, calling the following expert evidence: <ul style="list-style-type: none"> - Stuart McGurn from Urbis on Strategic Planning
288 Johnston St Abbotsford Pty Ltd	Dominic Scally of Best Hooper Lawyers
James Richardson Corporation Pty Ltd	James Burton of Human Habitats
SMA Projects	David Hickey of SJB Planning Pty Ltd
Argo Group	Joe Grech of Human Habitats
Council Alliance for a Sustainable Built Environment (CASBE)	Natasha Palich
Alphington Fairfield Appropriate Development Association (YPC)	Todd Perry
Collingwood Historical Society (YPC)	Janet Taylor
Friends of Royal Exhibition Building and Carlton Gardens (YPC)	Margaret O'Brien
Merri Creek Management Committee	Luisa Macmillan
Michael Phillipson	
Protect Fitzroy North (YPC)	Glen McCallum
Royal Historical Society of Victoria	Ian Wight

South Smith Street Action Group (previously Jenny Rizzo, Gore Street Group) (YPC)	Gregory Johnson and Charmaine Dennis
Streets Alive Yarra	Jeremy Lawrence
The 3068 Group (YPC)	Chris Goodman
Yarra Climate Action Now	Ande Bunbury
Anne Coveny	
Anne Horrigan-Dixon (Queens Parade Heritage, Planning & Traders Group) (YPC)	
Anthony Lehmann	
Billie Giles-Corti	
Candice Charles (Protect Clifton Hill) (YPC)	
Carol Jasen	
Carol Pelham-Thorman	
David Balding	
Giselle Darling	
Lucy Feagins	
Mitchell Shaw	
Peter Stahle	
Sally Vivian	
Stephen McCulloch	
Susan Hunt	
Terence Nott (YPC)	
Theresa Saldanha (Yarra Resident's Collective) (YPC)	

Appendix C Document list

No.	Date	Description	Presented by
1	12 Aug 21	Letter – from Panel regarding Directions Hearing	PPV
2	18 Aug 21	Letter – from Panel regarding Draft Directions	“
3	24 Aug 21	Email - from Planning Panels Victoria (PPV) to Submitters - Reminder of request to be heard deadline	“
4	25 Aug 21	Letter - from Protect Fitzroy North to PPV - Questions on Yarra C269 Panel Process	Protect Fitzroy North (PFN)
5	25 Aug 21	Letter - from Council to Panel – Proposed changes to draft Panel Directions	Council
6	25 Aug 21	Proposed changes to draft Panel Directions (Track Changes)	“
7	30 Aug 21	Email - from Bridgeworth Management Pty Ltd to Panel – Confirmation no longer wants to be heard	Bridgeworth Management Pty Ltd
8	1 Sep 21	Email - from Thomas Tyrrell to Panel - Confirmation no longer wants to be heard	Mr Tyrrell
9	2 Sep 21	Panel Directions and Hearing Timetable (version 1)	PPV
10	8 Sep 21	Letter - from Yarra Planning Coalition to Panel - Confirmation of expert witnesses and coalition of parties (Direction 3 and 4)	Mr Young for Yarra Planning Coalition (YPC)
11	8 Sep 21	Email - from UEM Sunrise (Collingwood Development) Pty Ltd (UEM) to Panel - Confirmation of Expert Witness (Direction 3)	UEM Sunrise
12	8 Sep 21	Email - from Royal Historical Society of Victoria to Panel - Response to coalition of parties (Direction 4)	Royal Historical Society of Victoria
13	8 Sep 21	Email - from Yarra Residents Collective to Panel - Response to coalition of parties (Direction 4)	Yarra Residents Collective
14	8 Sep 21	Email - from SMA Projects to Panel - Confirmation of Expert Witnesses (Direction 3)	SMA Projects
15	8 Sep 21	Letter - from Council to Panel - Responses to Directions 3 and 5, and error in Council Resolution	Council
16	8 Sep 21	01 - MPS - Clause 02.01 Context Panel Version (Track Changes)	“
17	8 Sep 21	01 - MPS - Clause 02.02 Vision Panel Version (Track Changes)	“
18	8 Sep 21	01 - MPS - Clause 02.03 Strategic directions Panel Version (Track Changes)	“
19	8 Sep 21	01 - MPS - Clause 02.04 Strategic Framework Plan Panel Version (Track Changes)	“

No.	Date	Description	Presented by
20	8 Sep 21	01 - MPS - Clause 02 MPS Panel Version (Track Changes)	"
21	8 Sep 21	02 - Local Policies - Clause 16.01-2L Location of residential development Panel Version (Track Changes)	"
22	8 Sep 21	02 - Local Policies - Clause 16.01-3L Housing diversity Panel Version (Track Changes)	"
23	8 Sep 21	02 - Local Policies - Clause 16.01-4L Housing affordability Panel Version (Track Changes)	"
24	8 Sep 21	02 - Local Policies - Clause 17.01-1L Employment Panel Version (Track Changes)	"
25	8 Sep 21	02 - Local Policies - Clause 17.02-1L Retail Panel Version (Track Changes)	"
26	8 Sep 21	02 - Local Policies - Clause 17.04-1L Tourism Panel Version (Track Changes)	"
27	8 Sep 21	02 - Local Policies - Clause 18.02-1L Sustainable transport Panel Version (Track Changes)	"
28	8 Sep 21	02 - Local Policies - Clause 18.02-3L Road system Panel Version (Track Changes)	"
29	8 Sep 21	02 - Local Policies - Clause 18.02-4L Car parking Panel Version (Track Changes)	"
30	8 Sep 21	02 - Local Policies - Clause 19.02-1L Health precincts Panel Version (Track Changes)	"
31	8 Sep 21	02 - Local Policies - Clause 19.02-2L Education precincts Panel Version (Track Changes)	"
32	8 Sep 21	02 - Local Policies - Clause 19.02-6L Open space Panel Version (Track Changes)	"
33	8 Sep 21	02 - Local Policies - Clause 19.02-6L POS contribution Panel Version (Track Changes)	"
34	8 Sep 21	02 - Local Policies - Clause 19.03-2L Development contributions Panel Version (Track Changes)	"
35	8 Sep 21	02 - Local Policies - Clause 19.03-3L WSUD Panel Version (Track Changes)	"
36	8 Sep 21	02 - Local Policies - Clause 19.03-5L Waste Panel Version (Track Changes)	"
37	8 Sep 21	02 - Local Policies - Clause 11.03-1L Activity centres Panel Version (Track Changes)	"
38	8 Sep 21	02 - Local Policies - Clause 11.03-6L Vic Street East Precinct Panel Version (Track Changes)	"
39	8 Sep 21	02 - Local Policies - Clause 12.01-1L Biodiversity Panel Version (Track Changes)	"

No.	Date	Description	Presented by
40	8 Sep 21	02 - Local Policies - Clause 12.03-1L River corridors Panel Version (Track Changes)	"
41	8 Sep 21	02 - Local Policies - Clause 13.03-1L Flood management Panel Version (Track Changes)	"
42	8 Sep 21	02 - Local Policies - Clause 13.07-1L Caretaker's houses Panel Version (Track Changes)	"
43	8 Sep 21	02 - Local Policies - Clause 13.07-1L Interfaces and amenity Panel Version (Track Changes)	"
44	8 Sep 21	02 - Local Policies - Clause 13.07-1L Licenced premises Panel Version (Track Changes)	"
45	8 Sep 21	02 - Local Policies - Clause 15.01-1L Signs – Heritage Panel Version (Track Changes)	"
46	8 Sep 21	02 - Local Policies - Clause 15.01-1L Signs Panel Version (Track Changes)	"
47	8 Sep 21	02 - Local Policies - Clause 15.01-1L Urban Design Panel Version (Track Changes)	"
48	8 Sep 21	02 - Local Policies - Clause 15.01-2L Building Design Panel Version (Track Changes)	"
49	8 Sep 21	02 - Local Policies - Clause 15.01-2L Landmarks Panel Version (Track Changes)	"
50	8 Sep 21	02 - Local Policies - Clause 15.02-1L ESD Panel Version (Track Changes)	"
51	8 Sep 21	02 - Local Policies - Clause 15.03-1L Heritage Panel Version (Track Changes)	"
52	8 Sep 21	02 - Local Policies - Clause 15.03-1L WHEA Panel Version (Track Changes)	"
53	8 Sep 21	03 - Particular Provisions - Clause 52.28 Gaming Panel Version (Track Changes)	"
54	8 Sep 21	04 - Operational Provisions - Schedule to Clause 72.08 Background Documents Panel Version (Track Changes)	"
55	8 Sep 21	04 - Operational Provisions - Schedule to Clause 74.01 Application of Zones, Overlays & Provisions Panel Version (Track Changes)	"
56	8 Sep 21	04 - Operational Provisions - Schedule to Clause 72.04 Documents incorporated in this Scheme Panel Version (Track Changes)	"
57	8 Sep 21	05 - Supporting Documents - Local Policies in PPF (Diagram) Panel Version	"
58	8 Sep 21	05 - Supporting Documents - Review of Yarra Landmarks Policy Ethos Urban March 2018	"

No.	Date	Description	Presented by
59	8 Sep 21	06 - Background Documents - Activity Centres Roles and Boundaries Panel Version	"
60	8 Sep 21	06 - Background Documents - CoY Climate Emergency Plan Preferred PDF Panel Version	"
61	8 Sep 21	06 - Background Documents - CoY Social Affordable Housing Strategy Panel Version	"
62	8 Sep 21	06 - Background Documents - Landmarks and Views Assessment Oct 2019 Panel Version	"
63	8 Sep 21	06 - Background Documents - Nature Strategy 2020-2024 Panel Version	"
64	8 Sep 21	06 - Background Documents - Noise and Vibration Considerations Oct 2019 Panel Version	"
65	8 Sep 21	06 - Background Documents - Residential Heritage Policy Review Oct 2019 Panel Version	"
66	8 Sep 21	06 - Background Documents - Yarra Housing Strategy, City of Yarra (2018) Panel Version	"
67	8 Sep 21	06 - Background Documents - Yarra Industrial Heritage Policy 15 Oct 2019 Panel Version	"
68	8 Sep 21	06 - Background Documents - Yarra Spatial Economic and Employment Strategy 2018 Panel Version	"
69	8 Sep 21	07 - Incorporated Documents - Database of Heritage Significant Areas - Relevant Pages Panel Version	"
70	8 Sep 21	07 - Incorporated Documents - Guidelines - Managing Noise Impacts in Urban Developments Panel Version	"
71	9 Sep 21	Email - from Riseheath Pty Ltd to Panel - Late confirmation of Expert Witness (Direction 3)	Riseheath Pty Ltd
72	10 Sep 21	Letter - from Council to Panel - Site visit Itinerary and map (Direction 6)	Council
73	10 Sep 21	Site Visit Itinerary Table	"
74	10 Sep 21	Site Visit Map	"
75	10 Sep 21	Letter -from Council to Panel - Maddocks Digital	"
76	16 Sep 21	Panel Hearing Timetable (version 2)	PPV
77	16 Sep 21	Letter - from Council to Panel - Explanation of 8 September 2021 Amendment Documentation	Council
78	17 Sep 21	Yarra Planning Coalition - Additional site visit suggestions (Direction 7)	YPC
79	17 Sep 21	Email - from UEM to Panel - Additional site visit suggestions and notification of Counsel (Direction 7)	UEM Sunrise

No.	Date	Description	Presented by
80	17 Sep 21	Email - from SMA Projects to Panel - Additional site visit suggestions (Direction 7)	SMA Projects
81	20 Sep 21	Email - from Council to Panel - Request to circulate late expert evidence	Council
82	20 Sep 21	Email - from PPV to Parties - Panel response to Council's request to circulate late expert evidence	PPV
83	20 Sep 21	Letter - from Council to Panel - Council Part A Submission and Evidence - 20 September 2021 (Direction 10 and 12)	Council
84	20 Sep 21	Council Part A Submission	"
85	20 Sep 21	Expert Witness Statement - Sarah Ancell - Planning	"
86	20 Sep 21	Expert Witness Statement - Jim Gard'ner - Heritage	"
87	20 Sep 21	Expert Witness Statement - Leanne Hodyl - Landmarks	"
88	20 Sep 21	Expert Witness Statement - Jim Antonopoulos - Noise	"
89	20 Sep 21	Expert Witness Statement - Julian Szafraniec - Capacity and Economics	"
90	23 Sep 21	Panel Hearing Timetable (version 3)	PPV
91	27 Sep 21	Expert Witness Statement - Stuart McGurn - Strategic Planning	UEM Sunrise
92	27 Sep 21	Expert Witness Statement - Elizabeth Vines – Sustainability, Liveability and Heritage	YPC
93	27 Sep 21	Expert Witness Statement - Nigel Lewis - Heritage	"
94	27 Sep 21	Expert Witness Statement - Jim Holdsworth - Architecture and Urban Design	"
95	27 Sep 21	Letter - from Riseheath Pty Ltd to Panel – regarding expert evidence and length of Hearing presentation	Riseheath Pty Ltd
96	27 Sep 21	Email - from National Trust of Australia (Victoria) to Panel - Regarding presentation at Hearing	National Trust of Australia (Victoria)
97	28 Sep 21	Email - from SMA Projects to Panel – regarding further written submission	SMA Projects
98	30 Sep 21	SMA Projects - Written Hearing Submission (Direction 28)	"
99	1 Oct 21	Letter - from Council to Panel - Expert Evidence in reply (Direction 14)	Council
100	1 Oct 21	Expert Evidence in Reply - Sarah Ancell - Planning	"
101	1 Oct 21	Expert Evidence in Reply – Jim Gard'ner - Heritage	"
102	1 Oct 21	Email - from the Yarra Planning Coalition to Panel - Regarding cross-examination at Hearing	YPC

No.	Date	Description	Presented by
103	1 Oct 21	Email - from Panel to Parties - Response to Yarra Planning Coalition regarding cross-examination	PPV
104	4 Oct 21	Letter - From Council to Panel - Council's Part B Submission (Direction 19)	Council
105	4 Oct 21	Council Part B Submission	"
106	4 Oct 21	Panel Hearing Timetable (version 4)	PPV
107	5 Oct 21	Site Visit Itinerary Table - updated	Council
108	5 Oct 21	Site Visit Map - updated	"
109	5 Oct 21	Council Part B Submission Index	"
110	5 Oct 21	Email - from Council Alliance for a Sustainable Built Environment (CASBE) to Panel – late request to be heard	CASBE
111	6 Oct 21	Revised definition of 'Individually Significant' presented by Mr Gard'ner in his presentation	Council
112	6 Oct 21	Ms Ancell's PowerPoint (slide) presentation	"
113	7 Oct 21	Revised text for Strategy regarding 'Demolition' presented by Mr Gard'ner in response to question from Panel	"
114	7 Oct 21	Yarra Planning Scheme proposed Design and Development Overlay Schedule 29 - Brunswick Street Shops	"
115	7 Oct 21	Statement of Significance for 370-374 Queens Parade	"
116	8 Oct 21	Leanne Hodyl's Hearing presentation slides	"
117	8 Oct 21	Panel Hearing Timetable (version 5)	PPV
118	11 Oct 21	Series of Tables - 'Comparison for different types of noise between existing scheme provisions and proposed clause 13.07-1L and Guidelines'	Council
119	11 Oct 21	Proposed Landmarks policy guideline (example of St Lukes Church) presented by Ms Hodyl during evidence	"
120	11 Oct 21	Further Directions for Council	PPV
121	11 Oct 21	Panel Hearing Timetable (version 6)	"
122	12 Oct 21	Panel Report for Moonee Valley C193 (PSA) [2019] PPV44	Council
123	14 Oct 21	Email - from Council to Panel – Request to circulate late supplementary submission	"
124	14 Oct 21	Email - from PPV to Parties – Panel response to Council request to circulate late supplementary submission	PPV
125	14 Oct 21	Supplementary Part B Submission	Council
126	15 Oct 21	Email - from Yarra Primary School to Panel – Withdrawal from Hearing	Yarra Primary School

No.	Date	Description	Presented by
127	15 Oct 21	Hearing Submission – Royal Historical Society of Victoria	Royal Historical Society
128	15 Oct 21	Appendix to Royal Historical Society of Victoria Submission – Interim Report on the History of the Australian Knitting Mills Site, October 2021	“
129	15 Oct 21	Hearing Submission – Friends of Royal Exhibition Buildings and Carlton Gardens (FREBCG)	FREBCG
130	15 Oct 21	Images associated with Document 129	“
131	15 Oct 21	Hearing Submission – Mr Phillipson	Mr Phillipson
132	15 Oct 21	Hearing Submission – Streets Alive Yarra	Streets Alive Yarra
133	15 Oct 21	Hearing Submission – Council Alliance for a Sustainable Built Environment (CASBE)	CASBE
134	15 Oct 21	Hearing Submission – Yarra Climate Action Now (YCAN)	YCAN
135	18 Oct 21	Hearing Submission – Merri Creek Management Committee (MCMC)	MCMC
136	18 Oct 21	Plans – Johnson Street Activity Centre (x1 page)	Council
137	18 Oct 21	Plans – Queens Parade Activity Centre (x1 page)	“
138	18 Oct 21	Plans – Lygon Street, Nicholson Street, Rathdowne Street north Activity Centres (x1 page)	“
139	18 Oct 21	Plans – Heidelberg Road, Alphington Activity Centre (x1 page)	“
140	18 Oct 21	Policy Guidance Note – Affordable Housing Outcomes at Significant Developments, 12 November 2019	“
141	18 Oct 21	Cremorne Place Implementation Plan, December 2020	“
142	18 Oct 21	Web page link – City of Yarra ESD, Zero Carbon Developments	“
143	18 Oct 21	Web page link – City of Yarra ESD, Example of Zero Carbon Development – The Rochester, Fitzroy	“
144	18 Oct 21	Web page link – City of Yarra ESD, Example of Zero Carbon Development – Ford Street, Clifton Hill	“
145	18 Oct 21	Plan – Extract from Queens Parade Built Form Review, Hansen, February 2017	“
146	18 Oct 21	Email from Ms Darling (Submitter 267) to Panel – Request to make a further submission to the Panel	Ms Darling
147	19 Oct 21	Ms Vines’ PowerPoint (slide) presentation	YPC
148	20 Oct 21	Emails – Mr Chenhall and Ms Horrigan-Dixon to Panel regarding changes to presenters and timetable	Mr Chenhall and Ms Horrigan-Dixon
149	20 Oct 21	Table – Summary of DDO23, DDO29-DDO40 and status	Council

No.	Date	Description	Presented by
150	20 Oct 21	Map – Showing Activity Centres, DDO23 and DDO29-DDO40 referred to in Document 149	“
151	20 Oct 21	Statement regarding September 2021 and October 2021 versions of the Noise and Vibration Considerations Discussion Report (SLR)	“
152	20 Oct 21	Noise and Vibration Considerations Discussion Report, SLR, September 2021 with Tracked Changes	Council
153	20 Oct 21	Submission – Protect Fitzroy North Inc	PFN
154	21 Oct 21	Submission, Part 1 – Yarra Planning Coalition	YPC
155	21 Oct 21	Submission – The 3068 Group	The 3068 Group
156	21 Oct 21	Photos – Canning Street, shown to Mr Lewis by Ms Brennan	Council
157	21 Oct 21	VCAT Decision – Lyndon Hsu Pty Ltd v Yarra City Council (Correction) [2014] VCAT 524	“
158	21 Oct 21	Article – ‘Towards a New, Human-scale Affordable Housing Policy, Lynne Ellsworth, Humanscale, NYC, September 2019	“
159	21 Oct 21	Clause 16.01-1R (Housing supply – Metropolitan Melbourne)	“
160	21 Oct 21	Clause 11.03 -1S (Activity centres)	“
161	21 Oct 21	Submission – Collingwood Historical Society Inc (CHS)	CHS
162	21 Oct 21	Photo – 396 Canning Street, North Carlton – referred to by Mr Lewis	YPC
163	21 Oct 21	Yarra Amendment C191 - Clause 21.12 (Local Areas) as adopted by Council regarding Swan Street Activity Centre	Council
164	21 Oct 21	Submission – South Smith Street Action Group (SSSAG) – Part 1	SSSAG
165	21 Oct 21	Submission – South Smith Street Action Group (SSSAG) – Part 2	“
166	21 Oct 21	Submission – Ms Saldanha	Ms Saldanha
167	21 Oct 21	Submission – Alphington Fairfield Appropriate Development Association (AFADA)	AFADA
168	21 Oct 21	Panel Hearing timetable (Version 7)	PPV
169	22 Oct 21	Email – from Ms Romanes advising that she does not wish to be heard by the Panel	Ms Romanes
170	22 Oct 21	Email – from Mr Francis advising that he does not wish to be heard by the Panel	Mr Francis
171	22 Oct 21	Hearing Submission	James Richardson Corporation Pty Ltd

No.	Date	Description	Presented by
172	"	PowerPoint presentation	"
173	22 Oct 21	Hearing Submission – Ms Darling	Ms Darling
174	22 Oct 21	Email – from Mr Young advising that Ms Charles will not be presenting to the Panel	Mr Young
175	22 Oct 21	Panel Report – Yarra Amendment C231, Queens Parade Built Form Review, put to Mr Holdsworth by Ms Brennan SC during cross-examination	Council
176	22 Oct 21	Yarra DDO26 (Swan Street Activity Centre, Precinct 2) – As adopted by Council as part of Amendment C191, put to Mr Holdsworth by Ms Brennan SC during cross-examination	"
177	22 Oct 21	VCAT Decision – Sweetnam v Yarra City Council [2015] VCAT 1000, put to Mr Holdsworth by Ms Brennan SC during cross-examination	"
178	22 Oct 21	Yarra Planning Scheme – Heritage Overlay Map Number 2HO (St Georges Road and Queens Parade), put to Mr Holdsworth by Ms Brennan SC during cross-examination	"
179	22 Oct 21	Yarra Planning Scheme – Heritage Overlay Map Number 5HO (East of REB), put to Mr Holdsworth by Ms Brennan SC during cross-examination	"
180	22 Oct 21	Yarra Planning Scheme – Proposed DDO31 (Gertrude Street Shops) as part of Amendment C270, put to Mr Holdsworth by Ms Brennan SC during cross-examination	"
181	22 Oct 21	Moreland Planning Scheme - Clause 15.03-1L (Heritage in Moreland), put to Mr Lewis by Ms Sharp during cross-examination	"
182	22 Oct 21	Slides – Presented by Ms Taylor during submission on behalf of Collingwood Historical Society	CHS
183	22 Oct 21	Email – From Panel to parties responding to request from Riseheath Pty Ltd regarding late filing of submission	PPV
184	22 Oct 21	Updated PowerPoint presentation by Ms Saldanha (update to Document 166)	Ms Saldanha
185	22 Oct 21	PowerPoint file – Photos of heritage properties in Wall Street and Malleson Street	"
186	22 Oct 21	Report – Analysing Melbourne’s Enterprise Precincts, SGS for DELWP, February 2018	"
187	22 Oct 21	Article – The Age – ‘Some gargantuan number’: Councils count the cost of open space shortfall, 22 March 2021	"
188	22 Oct 21	2019 Domain Liveability Study, Tract and Deloitte Access Economics	"
189	25 Oct 21	Hearing Submission	Riseheath Pty Ltd

No.	Date	Description	Presented by
190	25 Oct 21	Hearing submission	Mr Nott
191	25 Oct 21	Hearing Submission, Part 2 – Yarra Planning Coalition	YPC
192	25 Oct 21	Slide presentation	Ms Feagins
193	25 Oct 21	Hearing submission	Ms Jasen
194	25 Oct 21	Supplementary submission to Document 129 – Summary of recommendations	FREBCG
195	26 Oct 21	Hearing submission	Ms Hunt
196	26 Oct 21	Hearing submission	Mr McCulloch
197	26 Oct 21	Hearing submission	Mr Shaw
198	26 Oct 21	Slide presentation	“
199	26 Oct 21	Hearing submission	Ms Pelham-Thorman
200	26 Oct 21	Hearing submission	Mr Balding
201	26 Oct 21	Hearing submission	Mr Stahle
202	26 Oct 21	Hearing submission	Ms Vivian
203	26 Oct 21	Video presentation	Mr Lehmann
204	26 Oct 21	Photographs – Brunswick Street and laneways	“
205	26 Oct 21	Submission addendum	Mr Nott
206	26 Oct 21	Hearing submission	Ms Coveny
207	27 Oct 21	Hearing Submission – Queens Parade Heritage, Planning and Traders Group (QPHPTG)	Ms Horrigan-Dixon
208	27 Oct 21	Video presentation (number 2)	Mr Lehmann
209	27 Oct 21	Council submission - Part C track change clauses	Council
210	27 Oct 21	Hearing submission	Argo Group (Aus) Pty Ltd
211	27 Oct 21	Revised summary table – Summary of DDO23, DDO29- DDO40 and status (update of Document 149)	Council
212	“	High Change Area Analysis – as referred to in Council Part B supplementary submission, paragraph 173(b)	“
213	27 Oct 21	Hearing submission	288 Johnson Street Abbotsford Pty Ltd
214	“	Urban Design Advice – 288-298 Johnson Street Abbotsford, Robert McGauran, MGS, October 2021	“
215	“	Yarra Planning Scheme – Schedule 1 to Clause 45.06 Development Contributions Overlay	“
216	“	Evidence statement of Ms Ancell – marked up	“

No.	Date	Description	Presented by
217	"	Yarra Planning Scheme – Exhibited DDO15 (Johnson Street Activity Centre)	"
218	"	VCAT Decision – Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2021] VCAT 376	"
219	"	Johnson Street Activity Centre Plan	"
220	"	Knox CC v Tulcany Pty Ltd [2004] VicPRp 105; (2004) 18 VPR 229 (30 September 2004)	"
221	"	Council Supplementary Part B submission – marked up	"
222	"	Panel Report – Yarra C220 (2019) PPV (Johnson Street Built Form Controls)	"
223	27 Oct 21	Hearing submission	UEM Sunrise
224	28 Oct 21	Revised Hearing submission (update to Document 155)	The 3068 Group
225	28 Oct 21	Management policy in relation to Laneways, Passageways and Rights of Way in Yarra, Yarra City Council, 17 December 2019	YPC
226	"	Activating Laneways Strategy, City of Port Phillip, July 2011	"
227	28 Oct 21	Hearing submission slides	Ms Giles-Corti
228	28 Oct 21	Hearing presentation slides	Ms Vivian
229	28 Oct 21	Response to Council Part C drafting (Document 209)	Ms Vivian
230	28 Oct 21	Response to Council Part C drafting (Document 209)	Mr McCallum
231	28 Oct 21	Response to Council Part C drafting (Document 209)	Ms Coveny
231	28 Oct 21	Response to Council Part C drafting (Document 209)	Mr Nott
233	28 Oct 21	Revised Hearing submission (update to Document 167)	AFADA
234	28 Oct 21	Response to Council Part C drafting (Document 209)	Ms Saldanha
235	28 Oct 21	Response to Council Part C drafting (Document 209)	CHS
236	28 Oct 21	Response to Council Part C drafting (Document 209)	Ms Horrigan-Dixon
237	28 Oct 21	Response to Council Part C drafting (Document 209)	The 3068 Group
238	28 Oct 21	Response to Council Part C drafting (Document 209)	FREBCG
239	28 Oct 21	Response to Council Part C drafting (Document 209)	YPC
240	28 Oct 21	Yarra Planning Scheme Amendment C285yara Explanatory Report	UEM Sunrise
241	"	Extract from Yarra Planning Scheme maps showing the area and dimensions of three highlighted land parcels in Johnson Street, Collingwood	"
242	"	VCAT Decision - Foundry Company Pty Ltd v Yarra CC [2021] VCAT 4	"

No.	Date	Description	Presented by
243	29 Oct 21	Council Part C submission	Council
244	29 Oct 21	Email – from PPV to parties advising of adjournment of final day of the Hearing due to overnight storms impacting internet and power supplies	PPV
245	29 Oct 21	Hearing timetable (Version 8, 29 October 2021)	“
246	29 Oct 21	Email from Panel to all parties regarding correspondence received from Collingwood Historical Society	“
247	29 Oct 21	Copy of correspondence from CHS referred to in Document 246	CHS
248	29 Oct 21	Email from Panel to all parties regarding correspondence received from Ms Jasen	PPV
249	29 Oct 21	Copy of correspondence from Ms Jasen referred to in Document 248	Ms Jasen
250	3 Nov 21	Guidelines – managing noise impacts in urban development, October 2021 – Part C version with tracked changes	Council
251	“	Letter – from Minister for Planning to Yarra City Council regarding Yarra Amendment C270 (Collingwood and Fitzroy interim built form controls), 12 October 2021	“
252	“	Statement regarding intended content of Policy Guideline for Clause 15.01-2L (Landmarks)	“
253	“	Updated Campbell Street (Collingwood) slide from Part C submission (PDF page 86), revised in response to Documents 246 and 247	“
254	“	Updated Malleson Street (Richmond) slide from Part C submission (PDF page 88), updated to include heritage gradings for eastern end of HO319	“
255	“	Revised page 58 (PDF version) of Council Part C submission, to correct error in reference to the height of the development at 25-45 Best Street, North Fitzroy	“

Appendix D New policy or policy neutral translation

Planning Scheme Clause:	Change Status:
Clause 02 Municipal Planning Strategy	This is new policy content. <i>Note: This is a blank head clause.</i>
Clause 02.01 Context	This is new policy content.
Clause 02.02 Vision	This is new policy content.
Clause 02.03 Strategic Directions	This is new policy content.
Clause 02.04 Strategic Framework Plan	This is new policy content.
Clause 11.03-1L Activity Centres	This is a new local policy.
Clause 11.03-6L Victoria Street East Precinct	This is a policy neutral translation of the existing policy into the new format.
Clause 12.01-1L Biodiversity	This is an update of the existing policy with new content.
Clause 12.03-1L Yarra River, Darebin and Merri Creek	This is an update of the existing policy with new content.
Clause 13.03-1L Flood Management	This is a new local policy.
Clause 13.7-1L Caretaker's House	This is a policy neutral translation of the existing policy into the new format.
Clause 13.07-1L Interfaces and Amenity	This is an update of the existing policy with new content.
Clause 13.07-1L Licences Premises	This is a policy neutral translation of the existing policy into the new format.
Clause 15.01-1L Signs-Heritage	This is an update of the existing policy with new content. <i>Note: The new format of the scheme includes two separate sections on signs.</i>
Clause 15.01-1L Signs	This is an update of the existing policy with new content. <i>Note: The new format of the scheme includes two separate sections on signs.</i>

Planning Scheme Clause:	Change Status:
Clause 15.01-1L Urban Design	This is an update of the existing policy with new content.
Clause 15.01-2L Building Design	This is an update of the existing policy with new content.
Clause 15.01-2L Landmarks	This is an update of the existing policy with new content.
Clause 15.02-1L Environmentally Sustainable Development	This is an update of the existing policy with new content.
Clause 15.03-1L Heritage	This is an update of the existing policy with new content.
Clause 15.03-1L World Heritage Environs Area	This is a policy neutral translation of the existing policy into the new format.
Clause 16.01-2L Location of Residential Development	This is a new local policy.
Clause 16.01-3L Housing Diversity	This is a new local policy.
Clause 16.01-4L Housing Affordability	This is a new local policy.
Clause 17.01-1L Employment	This is an update of the existing policy with new content.
Clause 17.02-1L Retail	This is an update of the existing policy with new content.
Clause 17.04-1L Tourism	This is an update of the existing policy with new content.
Clause 18.02-1L Sustainable Transport	This is an update of the existing policy with new content.
Clause 18.02-3L Road Systems	This is an update of the existing policy with new content.
Clause 18.02-4L Car Parking	This is an update of the existing policy with new content.
Clause 19.02-1L Health Precincts	This is an update of the existing policy with new content.
Clause 19.02-2L Education Precincts	This is an update of the existing policy with new content.

Planning Scheme Clause:	Change Status:
Clause 19.02-6L Open Space	This is an update of the existing policy with new content.
Clause 19.02-6L Public Open Space Contribution	This is a policy neutral translation of the existing policy into the new format.
Clause 19.03-2L Development Contributions	This is a new local policy.
Clause 19.03-3L Water Sensitive Urban Design	This is generally a policy neutral translation of the existing policy into the new format with the exception of one change – the deletion of content in response to a condition of authorisation.
Clause 19.03-5L Waste	This is a new local policy.
Clause 52.28 Gaming	<p>This is generally a policy neutral translation of the existing policy into the new format, with the exception of a minor correction proposed in the 'Panel Version' of the Amendment documentation (correction of the name of the shopping complex).</p> <p><i>Note: The new format of the scheme moves this Clause to the Particular Provisions rather than the LPPF.</i></p>
Schedule to Clause 72.04 Documents Incorporated in this Scheme	This is an update of the existing operational provision with new content.
Schedule to Clause 72.08 Background Documents	This is an update of the existing operational provision with new content.
Schedule to Clause 74.01 Application of Zones, Overlays and Provisions	This is a new operational provision.

Source: Council's Part A Submission, Attachment A

Appendix E Panel preferred version of the planning provisions

Tracked Added

~~Tracked Deleted~~

Clause 02.01 (Municipal Planning Statement – Context)

02 MUNICIPAL PLANNING STRATEGY

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Proposed C269yara

02.01 Context

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Proposed C269yara

02-01-1 Location

Yarra stands on the traditional lands of the Wurundjeri people. Yarra acknowledges their creator spirit Bunjil, their ancestors and their Elders. Yarra acknowledges the strength and resilience of the Wurundjeri Woi Wurrung who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion. Yarra comprises of approximately 20 square kilometres and is bound by the Cities of Melbourne to the west, Boroondara to the east, Moreland and Darebin to the north and Stonnington to the south. Located between Melbourne's central business district and middle suburbs, it forms a transition between these areas. The Yarra River is the major environmental feature of the municipality, forming its southern and eastern boundaries.

02.01-2 Community and population growth

Yarra offers proximity to public transport, services, retail, entertainment, jobs and open space, making it an attractive place to live and work.

~~Around 96,000~~ Over 100,000 people live in Yarra, and this will grow by almost 30,000 ~~to~~ by 2031. It is projected that more than 13,000 new homes will be required to accommodate this growth.

The community is diverse in terms of ethnicity, language spoken, socio-economic background, age, household size, tenure and structure.

Household types in Yarra will continue to change, with a high ~~er~~ proportion of dwellings occupied by single occupants and families.

Council is committed to supporting a diverse community, including advancing equitable opportunities for people with disability and promoting the availability of diverse and affordable housing to support social inclusion and maintain Yarra's community into the future. However, managing population growth and change and supporting a diverse community is a challenge for Yarra. In planning for growth and change, Yarra is faced with managing the pressure on the valued heritage and the character of Yarra's buildings and streetscapes, its open space, community facilities, infrastructure, natural environment and transport.

02.01-3 Activity centres

Yarra's major and neighbourhood activity centres are predominantly along and around the main retail shopping streets. They feature highly intact heritage streetscapes and heritage places that are valued by the community.

Yarra's major, neighbourhood and local activity centres are shown on the Strategic Framework Plan in clause 02.04-~~1~~ and Activity Centre Plans in 11.03-1L.

With access to services, public transport and a walkable, fine grain street network, Yarra's activity centres will continue to be ~~strengthened~~ strengthened so that they remain vibrant and liveable places, capable of serving growing local economies and new and changing communities.

02.01-4 Natural environment

Yarra is an urban ~~ised~~ environment, with remnant native vegetation located within waterway corridors providing a home for indigenous flora and fauna. Yarra includes three significant water corridors - Yarra River and its tributaries, Darebin Creek and Merri Creek. These corridors are significant environmental assets that have a number of functions, including: providing for leisure and recreation, forming habitats to enhance biodiversity, acting as the city's 'green lungs', and managing water flow and stormwater. The low-lying land around the waterways however means that parts of Yarra are susceptible to flooding.

02.01-5 Climate change

Increased population in the inner city can bring sustainability benefits through more efficient use of

existing infrastructure, more people being able to access existing services, local recreation and employment opportunities, increased use of sustainable transport modes and reduced sprawl on Melbourne's fringe.

Climate change is resulting in the urban environment getting hotter and drier, with more extreme weather events. Inner city areas, such as Yarra are ~~susceptible to~~ experiencing the urban heat island effect and localised flooding and as such Yarra needs to manage the impact from urban development.

Yarra Council has declared a climate emergency, acknowledging both the scale and urgency of action to avoid the catastrophic impacts of global heating. Yarra will need to continue to mitigate greenhouse gas ~~contributions~~ emissions and act locally. To mitigate its contribution to climate change, Council ~~is proactively seeking to reduce its carbon emissions and is working towards zero net emissions from its operations by 2020~~ has reached zero net emissions from its operations and is seeking to achieve zero net emissions in our community by 2030. In doing so, Council will contribute to global climate change commitments -as well as national and state targets.

02.01-6

Built environment and heritage

Yarra ~~stands on the traditional lands of the Wurundjeri people. It~~ is a municipality steeped in history and one that contributes significantly to the story of Melbourne. Yarra includes some of Melbourne's oldest suburbs and shopping strips, with heritage that links its contemporary and progressive inner-city character to its origins.

Heritage is an important feature of Yarra's identity, which comprises historic buildings, landscapes, landmarks, streetscapes, subdivision pattern (made up of its streets, lanes and boulevards), and cultural heritage, including indigenous heritage. Groups of heritage buildings form important heritage places and include the municipality's renowned retail strips and neighbourhoods in some of Melbourne's first suburbs.

Yarra's heritage includes buildings and places of local, state, national and international significance, including part of the Royal Exhibition Buildings and Carlton Gardens World Heritage Environs Area, which provides a setting and context of significant historic character for the World Heritage property. Over 70% of Yarra's properties are covered by a heritage overlay.

The existing scale of development within the municipality is mostly characterised by low to mid-rise buildings, with some taller buildings (~~above 14 storeys~~) which are anomalies to the mid-rise character. The residential neighbourhoods that constitute much of the municipality mostly comprise single and double storey dwellings. This scale is also represented by many of the small heritage shopfronts within retail strips. In parts of Yarra there is a strong composition of mid-rise and some taller buildings, notably concentrated in pockets within activity centres, along main roads and in areas transitioning from industrial to commercial / mixed uses. These mid-rise and some taller buildings comprise modern apartments and offices.

Other taller elements in Yarra include towers, spires and signs, high rise social housing and health and education facilities.

Yarra has a range of residential built form types. There are residential areas that present uninterrupted terraced frontages to the street, often with little or no front setback. Other inner areas, while still predominantly small in lot size, present a more suburban appearance with modest front setbacks, often with small front gardens and small gaps between buildings. In Fairfield and Alphington, there is a more spacious, garden character, with generous front and side setbacks and large back yards.

Apartment living is becoming more common in Yarra, to a range of households - singles, couples, families and share households. It will become the predominant form of housing over the next 15 years.

The large public housing estates provide a contrasting built form character of high-rise apartment buildings set in landscaped grounds.

02.01-7

Housing

Managing the impact of housing growth on the city's character and urban form is a key challenge for Yarra as parts of the municipality have experienced rapid rates of development.

New housing predominantly in the form of apartments is concentrated in parts of East Richmond,

Richmond, Collingwood, Abbotsford, North Clifton Hill and Fitzroy / North Fitzroy. This has occurred largely through redevelopment in activity centres and former industrial areas. Three major former industrial precincts will also transition to residential and mixed use neighbourhoods – the Alphington Paper Mill, the former Gasworks site in North Fitzroy and south-west Cremorne (south of Gough Street).

New development is bringing change to the scale and density of those areas. Yet despite this, residential areas in Yarra largely continue to consist of separate, semi-detached row and terrace housing.

There has been a rapid increase in house prices and land values in recent years, consistent with other parts of inner Melbourne. As a result, many households cannot afford to rent or purchase a home in the municipality. The past decade has also seen a dramatic increase in the number of private dwellings, while the amount of social housing has remained relatively static. Consequently, the proportion of households living in public and community housing (social housing) in Yarra has declined from 15.5% in 1991 to 12% in 2017.

Facilitating accessible, adaptable, affordable housing options to cater for Yarra's diverse community, now and into the future, is a focus for Yarra.

02.01-8

Economic development

Yarra has a strong and mixed economy, and is well positioned to attract and retain businesses and workers. Contributing to this is Yarra's industrial heritage building stock, transport connectivity, inner-city lifestyle, [night-time economy](#), access to open space and the Yarra River. The high level of transport connectivity allows businesses to access the large metropolitan workforce. Building on these elements will support Yarra's competitive advantage and will help to maintain its vibrant economy.

The municipality has undergone substantial change in recent decades, transitioning from a location for manufacturing to a more diverse economy. The legacy of industrial uses means that areas of Yarra may be potentially contaminated, which requires consideration when redeveloping for dwellings and other sensitive uses.

Yarra's **employment areas** are:

- **Activity centres:** largely on its retail strips which host a range of retail, commercial, entertainment and residential uses. Activity centres are shown on the Strategic Framework Plan in clause 02.04-~~1~~ and plans in clause 11.03-1L;
- **Major employment precincts:** Cremorne Precinct and Gipps Street Precinct, Collingwood. These precincts are shown on the Strategic Framework Plan in clause 02.04-~~1~~. These areas include a diverse mix of offices, creative industries and specialised manufacturing businesses. Their proximity to the central business district, other parts of inner Melbourne and good access to Melbourne's transport network makes them attractive for businesses seeking a location close to a large number of workers, customers, clients and other firms.
 - Cremorne is an enterprise precinct, emerging as Melbourne's premier destination for creative design, particularly in the tech and digital space. It is home to global companies which sit side by side with small to medium sized firms, start-ups and co-working spaces.
 - The Gipps Street Precinct is an emerging precinct attracting creative services such as architecture and design, software and interface design and visual arts.
- **Employment land:** Commercial and industrial land outside of activity centres and major employment precincts, such as CUB, Abbotsford and Botanic Corporate Park [in](#) Richmond (as shown on the Strategic Framework Plan in clause 02.04-~~1~~). These areas support employment uses on individual sites or within broader precincts, where employment uses have been maintained through commercial or industrial zoning.
- **Health and education precincts:** Health services based around major hospitals and their

allied medical services are ~~now~~ a major source of employment. The education sector is also growing. These two precincts are shown on the Strategic Framework Plan in clause 02.04-1 and plans in clause 11.03-1L, being:

- St. Vincent's public and private hospitals and Australian Catholic University, Fitzroy (health and education). Epworth Hospital, Richmond (health).

02.01-9

Transport

Yarra benefits from an extensive transport system that includes public transport (train, tram and bus services); a network of arterial roads and local streets; [separated bike routes](#) and a compact urban form and mix of land uses that facilitates walking and cycling. Within the city, local shops and amenities, activity centres and employment areas are accessible by sustainable travel modes. There are also good connections to Melbourne's Central Business District and other parts of the metropolitan area.

Cycling volumes on Yarra's streets and off-road paths have continued to steadily rise over the last ten years and this trend is forecast to continue.

The availability of car parking is important for residents and businesses in Yarra; however unrestricted car use and parking creates pressure in Yarra's streets.

Clause 02.02 (Municipal Planning Statement – Vision)

02.02 Vision

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Proposed C269yara

~~The vision in the Yarra City Council Plan and Community Health and Wellbeing Plan 2017-2021 is for the municipality to be:~~

~~“A vibrant, liveable and sustainable inner city that the community can be proud of”.~~

The Yarra 2036 Community Vision statement is:

Yarra is a vibrant, safe and inclusive environment. We celebrate and embrace our diversity and connection to each other and the land. Our community is empowered to work together and support one another with respect and trust.

The Yarra Planning Scheme forms the spatial response to the council’s vision.

The spatial vision for the municipality is:

Yarra will be one of Melbourne’s most attractive inner-city municipalities, with a strong sense of history, a diverse population and a dynamic economy. The city’s prominent retail strips will attract visitors from across Melbourne and beyond, who are drawn to a vibrant range of shops, artistic and cultural offers and a popular night-time economy. The local economy will include important health and education precincts, businesses seeking to locate in popular activity centres and employment precincts, and a growing number of creative industries and niche manufacturers. Yarra’s historic neighbourhoods and heritage assets will be conserved, with development revitalising areas with capacity for change. New housing will provide homes in a range of sizes to meet the needs of the population, and be supported by the necessary community facilities and infrastructure. High quality urban design will respect the city’s heritage and built form character, provide new public and open spaces, and improved connections for walking and cycling. Landscape and natural assets will be well managed, with enhanced connections to the ~~Yarra River~~ waterway corridors and ~~its~~ their surrounding parks and recreation areas. Through environmentally sustainable development the municipality will reduce its carbon footprint and become resilient to climate change. Yarra will be a city proud of its history and prepared for the future.

Clause 02.03 (Municipal Planning Statement – Strategic Directions)

02.03 Strategic directions

Proposed C269yara

02.03-1 Settlement

Activity centres

Yarra has a well-established network of activity centres, each with their own role and character, including:

- Major activity centres of Swan Street, Bridge Road, Victoria Street, Brunswick Street and Smith Street which are identified in Plan Melbourne 2017-2050 and provide a wide range of goods and services, some serving larger sub-regional catchments.
- Neighbourhood activity centres of Queens Parade, Gertrude Street, Heidelberg Road Alphington, Johnston Street, Nicholson Street, North Fitzroy / Clifton Hill, St Georges Road, North Fitzroy and Rathdowne Street, Carlton North, which provide access to local goods, services and employment opportunities to serve the needs of the surrounding community.
- Local activity centres such as Spensely Street, Clifton Hill, and Berry Street/Ramsden Street, Clifton Hill which provide a more limited range of goods, services and employment opportunities and largely serve the adjoining local community.

Activity centres are a focus of growth in Yarra with the addition of mid-rise commercial development and apartments. They will continue to accommodate most of the city's growth because of their proximity to transport infrastructure, shops and services making them the most suitable locations for development.

[These activity centres generally contain highly valued streetscapes and commercial buildings included on the Heritage Overlay and must balance the requirements for growth with the retention of heritage significance.](#)

Support and strengthen the vibrancy and local identity of Yarra's network of activity centres.

- Plan and manage employment and residential opportunities to ensure they strengthen activity centres as primary locations for economic activity, housing, leisure and recreation, tourism, the arts and culture.
- Support a strong and diverse network of activity centres across Yarra by promoting development that:
 - Is of a scale appropriate to the role and capacity of the centre.
 - Supports each centre's unique character
 - Provides a mix of uses.
- Encourage land use and development opportunities that create diverse and sustainable centres by:
 - Encouraging development that enhances a centre's sense of place, identity and street activity.
 - Encouraging new development to improve the public realm.
 - Providing for residential development within activity centres at a scale appropriate to the role and capacity of the centre.
 - Fostering activity centres as social and community focal points and vibrant night-time and weekend destinations.
- Reinforce Yarra's activity centres as compact, pedestrian-oriented, mixed-use communities,

that provide walkable access to daily and weekly shopping and service needs, and are well-served by different modes of transport.

02.03-2 Environmental and landscape values

Natural environment

Maintaining and enhancing habitat connectivity for both flora and fauna is key to improving and safeguarding biodiversity within Yarra and its environs. The majority of [indigenous](#) flora and fauna occur along the water corridors with other large reserves such as the ~~Edinburgh Gardens~~ [Yarra Bend Park](#) and large canopy trees likely to play a key role in the movement of fauna and providing food and shelter resources.

Protect and enhance Yarra's natural environment

- Protect the significant natural environment, landscape values and cultural heritage of the Yarra River and the Darebin and Merri Creek corridors
- Improve and manage public access to Yarra's water corridors.
- Improve pedestrian and cycle links across the Yarra River and Darebin and Merri Creeks to neighbouring municipalities [that enhance the natural environment](#).
- Keep the Yarra River and creeks healthy by reducing impacts on water quality.
- Protect and enhance Yarra's biodiversity within and beyond waterway corridors by creating, improving and connecting new and existing green spaces.

02.03-3 Environmental risks and amenity

Climate change

Yarra will continue to help mitigate greenhouse gas emissions and increase climate resilience of the city by planning for sustainable development. A highly sustainable urban fabric, both in the public and private realm, will help preserve Yarra's vibrant and liveable places

Lead on [environmental](#) sustainability and seek to manage the long-term effects of climate change.

- Integrate climate adaptation principles, environmental and sustainability policies and strategies.
- Create a built environment that mitigates and adapts to climate change by:
 - Directing growth to activity centres, major employment precincts [and](#) employment land ~~and around~~ [that are close to](#) public transport;
 - Promoting land use and development that support a shift to sustainable modes of transport - walking, cycling and public transport; and
 - Supporting environmentally sustainable development.
- Create a healthy and growing urban forest that includes all trees and plants in Yarra, by greening open spaces, streetscapes and buildings.
- Reduce the urban heat island effect by increasing the ~~street~~ tree canopy by 25% (from 2014 levels) by 2040.
- Embed sustainable environmental practices in Yarra's buildings, infrastructure, places and spaces, including a framework for early consideration of environmental sustainability at the building design stage in order to achieve the following efficiencies and benefits:
 - Easier compliance with building requirements through passive design;
 - Reduction of costs over the life of the building;
 - Improved affordability over the longer term through reduced running costs;
 - Improved amenity and liveability;
 - [Reduced greenhouse gas emissions](#);

- More environmentally sustainable urban form; and
- Integrated water management.
- Reduce and mitigate the impacts of climate change and flooding events.
- Facilitate development that protects and conserves water.

02.03-4 Built environment and heritage

A key challenge in planning for growth is the need to accommodate new development in a built form that is sensitive to the context of the area which includes heritage significance, character and scale of the surrounding area. This needs to be balanced with opportunities to allow for new built form character in major regeneration areas such as - Alphington Paper Mill, the former Gasworks site in North Fitzroy and south-west Cremorne (south of Gough Street).

~~Protecting~~ Conserving and enhancing heritage ~~buildings~~ places and streetscapes while still allowing appropriate development is a key driver in Yarra.

Major employment precincts, employment land, neighbourhoods, streetscapes and activity centres in Yarra all have distinct identities formed by:

- A diverse mix of buildings reflecting different forms and eras of development;
- Open spaces which are integral to the urban structure;
- Fine grain subdivision patterns; and
- A network of laneways and small streets.

If not carefully managed, future development could erode Yarra's valued character.

Manage development and growth in Yarra to maintain and enhance the unique character and heritage of the city.

- Respect Yarra's distinctive features and landmarks, including:
 - The low-rise character of residential neighbourhoods;
 - Historic retail strips;
 - Identified buildings and places of heritage significance - Aboriginal and ~~European~~ post-contact;
 - Significant landmarks and tall structures, including church spires, clock towers, industrial structures and heritage signs;
 - Industrial and former industrial buildings;
 - The Yarra River, Darebin and Merri Creeks and adjacent open spaces;
 - Parks and gardens;
 - Municipal buildings in Collingwood, Fitzroy and Richmond; ~~and~~
 - The historic grid of boulevards, streets and laneways;
 - Historic commercial buildings including banks, hotels and post offices; and
 - Historic street and laneway fabric and infrastructure.
- ~~Protect,~~ Conserve and enhance the municipality's highly valued heritage places to retain and promote Yarra's distinctive character and sense of history.
- Retain and adapt Yarra's historic industrial buildings as a means of connecting with the past.
- Reinforce Yarra's ~~low-scale~~ low-rise neighbourhoods by directing mid-rise buildings to appropriate locations, within major and neighbourhood activity centres, employment areas (as ~~defined~~ identified in clause 02.01), major regeneration areas (as shown on the Framework Plan in clause 02.04-4), and along boulevards (Hoddle St, Alexandra Parade, Victoria Parade and the south end of Queens Parade.).
- Ensure mid-rise buildings are in accordance with any building height requirements set out in the relevant zone or overlay, or, where there are no building height requirements specified,

having regard to the physical and strategic context of the site.

- Manage the scale, intensity and form of development in activity centres to protect highly intact heritage streetscapes and buildings.
- Design development and locate land uses to create people-oriented places with high standards of amenity, ~~both~~ on-site, for adjoining properties and in the public realm.
- Protect and enhance the built form, character and function of streets and laneways as a feature of Yarra's urban structure and character.
- Improve the built form character and streetscapes of Yarra's boulevards - Alexandra Parade, Hoddle Street, Victoria Parade and the south end of Queens Parade.

02.03-5 Housing

Yarra will continue to manage the scale, intensity and form of residential growth. This will continue to differ across the municipality depending on the capacity of sites to accommodate housing growth and the physical and strategic context of each site.

Council supports the provision of additional and improved social housing (including public and affordable housing) to ensure residents in need of this type of accommodation are supported, and can live in easy access to essential services and nearby employment opportunities.

Plan for future housing growth and for more housing choice to support Yarra's diverse community.

- Direct housing growth to appropriate locations: major regeneration areas (Alphington Paper Mill, the former Gasworks site in North Fitzroy and south-west Cremorne, south of Gough Street) as shown on the Framework Plan in clause 02.04-1, and areas within activity centres that have good access to public transport, jobs, open space and other services.
- Support Yarra's diverse community by facilitating accessible, adaptable, affordable housing options that:
 - Provide for diverse housing types including shared, sole person, couple and family households.
 - Include housing for people with disabilities, older persons, students and those in need of crisis accommodation.
 - Provide for a range of affordable housing types appropriate to the needs of very low, low and moderate-income households.
 - Include greater housing choice for key workers.
 - Encourages the supply of additional social housing and improvements to existing social housing.

02.03-6 Economic development

Yarra has capacity for employment growth and is committed to supporting this growth in its employment areas in preference to residential development in these areas. There is an identified need to manage pressure for residential conversion of employment land to protect opportunities for economic growth.

Yarra has a vibrant arts scene and prominent cultural and entertainment venues, including the Collingwood Arts Precinct. The Abbotsford Convent and Collingwood Children's Farm are regional tourist destinations and support cultural and creative industries. A key challenge in Yarra is the retention of affordable creative work spaces.

Yarra's [night-time](#) economy includes restaurants, bars and live music venues spread across a number of precincts. The abundance of these venues provide important social, cultural and economic benefits and make Yarra an attractive place in which to live, work and visit. Tension however, sometimes develops between licensed premises, residential and other commercial land uses, which need to be appropriately managed.

Yarra's diverse economy means that different land uses often overlap or vary within short distances. This mix of residential, commercial, industrial and entertainment in close proximity creates a

challenge as well as opportunities to manage environmental and amenity impacts and enhance activity centres and precincts.

Promote Yarra as an attractive location for economic activities and an important part of Melbourne's inner city economy.

- Strengthen the role and hierarchy of the activity centres by:
 - Promoting them as the preferred locations for retail, services and entertainment;
 - Supporting a diverse land use mix; and
 - Facilitating adaptable and functional commercial spaces.
- Preserve and grow Yarra's employment areas (as ~~defined~~ identified in clause 02.01) by supporting the:
 - Growth of health and education related employment and services in health and education precincts (as shown on the Strategic Framework Plan in clause 02.04-4);
 - Economic primacy of Yarra's major employment precincts at Cremorne and the Gipps Street precinct in Collingwood; and
 - Employment land - ~~Industrial and commercial areas~~ in the industrial and commercial land shown on the Strategic Framework Plan (Clause 02.04).
- Support a night-time economy and entertainment precincts which provide a diverse range of activities while managing their amenity impacts on residents.
- Minimise pressures for residential conversion of employment precincts.
- Maintain an adequate supply of employment land to accommodate projected economic and employment growth ~~and that~~ meets the diversity of business needs.
- Ensure sensitive land uses (such as residential uses) are designed and located to minimise the potential conflict with existing surrounding employment uses (including existing retail, commercial, hospitality, night-time economy, creative and cultural uses).
- Advance Yarra as a desirable location for creative industries and arts by supporting opportunities to increase the number of creative industries and cultural spaces in the municipality.

02.03-7 Transport

While Yarra is well positioned to facilitate the use of sustainable modes of transport, increasing car use and parking demand continues to create pressure and congestion in Yarra's streets, not just for cars but for other transport modes using the road system. The competition for the limited physical space within streets is an ongoing issue.

Facilitating sustainable journeys on all transport modes will support the productivity, wellbeing and environmental values of the community. Yarra needs to reduce car dependence by promoting walking, cycling and public transport as the preferred forms of transport.

Facilitate connectivity and travel options that are environmentally sustainable, integrated and well-designed.

- Integrate land use and development planning with public and active transport infrastructure and services to create compact, walkable, pedestrian-oriented, mixed-use communities ~~centered~~ centred around train stations and other key public transport nodes.
- Provide convenient access to public and active transport for all ages and abilities by:
 - Promoting compact and more diverse land use and development in major regeneration areas, major and neighbourhood activity centres (as shown on the Framework Plan in clause 02.04-4) well served by public transport; and
 - Creating a built environment with public spaces that promote social interaction and are connected to the transport network.
- Enhance Yarra as a safe place to walk and cycle, to increase the number of people walking

and cycling.

- Encourage developments to [promote and](#) prioritise sustainable transport modes.
- Encourage lower amounts of car parking and increased infrastructure for active transport in developments ~~(such as high levels of bicycle parking and end of trip facilities)~~ to encourage reduced use of private motor vehicles.

02.03-8

Infrastructure

Social and physical infrastructure

Infrastructure is required to cater for Yarra's growing population and the consequential increased demand on infrastructure.

Respond to Yarra's changing social and physical infrastructure needs.

- Provide, renew or adapt social and physical infrastructure to meet the needs of the growing population and employment base.

Open space

Open spaces within Yarra make a significant contribution to the distinctive character and amenity of neighbourhoods. They provide passive and active recreation, contribute to the city's tree canopy, and possess cultural values in places of ~~European~~ [post-contact](#) and indigenous heritage.

Provide attractive and accessible open spaces for people to enjoy.

- Aim to provide the community with access to high quality open space within walking distance of their home or work.
- Seek opportunities to improve and extend Yarra's open space network, particularly in areas currently under-provisioned and with projected population increases.

Clause 11.03-1L (Activity centres)

11.03-1L Activity Centres

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Proposed C269yara

Objective

To manage a sustainable network of activity centres that facilitate appropriate economic and housing growth and provide attractive places for social and community interaction.

Strategies

Encourage uses and development in activity centres that support the employment areas and health and education precincts shown on the Strategic Framework Plan in clause 02.04-1 by providing retail, service and hospitality offers to their workforces.

Support development within activity centres that is consistent with the capacity for each centre as identified in the Strategic Housing Framework Plan at clause ~~02.04-3~~ [16.01-1L](#).

Support high quality mid-rise buildings in major and neighbourhood activity centres ~~as identified in the relevant~~ [where specified in a](#) Design and Development Overlay.

Support development that improves the built form character of activity centres, whilst conserving heritage ~~buildings~~ [places](#), streetscapes and views to identified landmarks.

Support use and development, that make a positive contribution to the night-time economies of activity centres, whilst limiting adverse amenity impacts within the centres and surrounding residential neighbourhoods.

Support development that transitions to and is sensitive to the interfaces with low-rise residential neighbourhoods.

Encourage the sensitive, adaptive re-use and restoration of heritage buildings in activity centres. Promote use and development that support street level activation and passive surveillance of the public realm.

Support development that improves the public realm and positively contributes to the streetscape environment within activity centres.

MAJOR ACTIVITY CENTRES***Brunswick Street, Fitzroy***

Promote the metropolitan and local retail and commercial role of the activity centre.

[Manage licensed premises and support the precinct's prominent night-time economy including the core entertainment precinct of bars and night-clubs between Alexandra Parade and Gertrude Street.](#)

Support development that responds to the character distinctions between the commercial land with frontage to Brunswick Street and the Mixed Use zone behind.

Retain the visual prominence of the consistent Victorian and Edwardian heritage streetscape, including municipal and local landmarks and street corner sites, with the exception the Atherton Garden's precinct.

Promote development that retains the consistent ~~low-scale~~ [low-rise](#) built form and fine grain pattern of the highly intact heritage streetscape and heritage buildings in the precinct between Johnston Street and Leicester Street.

Promote development that supports a low to mid rise character south of Johnston Street to Gertrude Street.

~~Support taller built form~~ Promote development that supports a mid-rise character above a consistent street wall north of Leicester Street.

Ensure development retains the dominance and integrity of the ‘grand’ residential buildings south of Gertrude Street.

Protect primary views to St Patrick’s Cathedral and St Luke’s Church.

Major and Neighbourhood Activity Centres in Fitzroy Plan

[Map to be reinserted]

Smith Street, Collingwood / Fitzroy

Promote the metropolitan and local retail and business roles of the activity centre.

Encourage development that responds to the different built form conditions in Collingwood South precinct, with taller built form towards Wellington St and south of Peel Street and retain the visual dominance and integrity of the existing industrial warehouse buildings north of Peel Street.

Encourage taller built form at the northern end (generally north of Hotham and Kerr Streets) and the southern end (generally south of Mason Street) of Smith Street.

Encourage low to mid rise development in the traditional retail core that responds to the varied existing heritage conditions and reinforces the visual prominence of the heritage streetscape, generally between Hotham and Kerr Streets in the north and Mason Street in the south.

Retain the visual prominence of the Victorian and Edwardian heritage streetscape, including local landmarks, street corner sites and former department stores, particularly in the traditional retail core.

Encourage employment through mixed use and commercial development, including in the mixed use zoned land behind Smith Street.

Manage licensed premises and support the precinct’s prominent night-time economy including the core entertainment precinct of bars and night-clubs between Alexandra Parade and Gertrude Street.

Retain the visual prominence of the industrial heritage buildings.

Bridge Road, Richmond

Promote the metropolitan and local retail and commercial roles of the activity centre, including larger format retail at its eastern end.

Support Epworth Hospital by supporting associated health and allied services to locate near the hospital

Promote high quality public realm around Richmond Town Hall, to support its civic function.

Support the night-time economy, including the core entertainment precinct west of Burnley Street, while managing the amenity impacts associated with licensed premises.

Protect primary views defined in the clause 15.01-2L to the spire of St Ignatius Cathedral, clocktower of Richmond town hall, and the Pelaco sign.

Retain the visual prominence of the heritage streetscape west of Church Street and the south side of Bridge Road east of Church Street.

Bridge Road Major Activity Centre Plan

[Map to be reinserted]

Swan Street, Richmond

Promote the distinct character and varying development opportunities defined by the four precincts along Swan Street – Richmond Station, Swan Street Retail Centre, Swan Street East and Burnley Station.

Support the land uses along Swan Street, west of Church Street, as a core entertainment precinct that contains a range of licensed premises that make a significant contribution to the night-time economy.

Support development that responds to and respects the architectural form and qualities of heritage buildings and the significant heritage streetscape.

Ensure development enhances pedestrian links to the Richmond Railway Station in precinct 1 and to Burnley Station in precinct 4 shown in Swan Street Activity Centre Plan to this clause.

Reinforce precinct 3 (shown in Swan Street Activity Centre Plan to this clause) as mixed-use comprising retail, commercial and residential uses.

Support high quality development that fosters the transformation of precinct 4 (shown in Swan Street Activity Centre Plan to this clause) into a vibrant mixed-use precinct anchored by Burnley Station.

To ensure that vehicular access to development does not adversely impact the level of service, efficiency, and safety of the arterial and tram network.

Swan Street Activity Centre Plan

[Map to be reinserted]

Victoria Street, Abbotsford / Richmond

Promote the metropolitan and local retail and commercial roles of the activity centre.

Capitalise on future opportunities such as provision of open space and links to the Yarra River, provided by commercial and industrial areas in Abbotsford, including the Carlton and United Brewery site.

Manage licensed premises and the precinct's prominent night-time economy including the core entertainment precinct west of Burnley Street.

Retain the visual prominence of the heritage buildings, on the north side of the street west of the railway line

Retain the visual prominence of the Victoria Street Gateway at the intersection with Hoddle Street.

Support taller built form adjacent to the North Richmond Station to promote accessibility to public transport.

Reinforce the concentration of height, density and mixed uses east of Burnley Street, to provide a visual mark to the east end of Victoria Street.

Encourage development west of Church Street to have **low-scale** **low-rise** street walls.

Allow for mid-rise development elsewhere in the activity centre that responds to the mix of heritage forms.

Protect primary views, defined in the clause 15.01-2L, to the Skipping Girl sign.

Limit the installation of security shutters or other measures that reduce views into businesses on main retail strips to ensure that they are visually transparent.

Victoria Street Activity Centre Plan

[Map to be reinserted]

~~11.03-1L~~ NEIGHBOURHOOD ACTIVITY CENTRES

Reinforce the role of the neighbourhood activity centres as the local community's destination for services, facilities and social interaction.

Gertrude Street, Fitzroy

Promote the retail role of the activity centre. ~~defined in the Major and Neighbourhood Activity Centres in Fitzroy Plan.~~

Manage licensed premises and interface and amenity impacts with adjacent residential areas.

Retain the ~~low-scale~~ low-rise form and the fine grain pattern of the highly intact heritage streetscape and the heritage buildings in the activity centre.

Retain the visual prominence of the existing Victorian and Edwardian heritage streetscape, including local landmarks, and corner sites.

Protect views to the drum dome lantern and flagpole of the Royal Exhibition Building and Carlton Gardens.

Heidelberg Road, Alphington

Promote the retail and community roles of the activity centre.

Support the expansion of the activity centre by directing taller development to its western end within the Alphington Paper Mill major regeneration area.

Support more moderate built form on land outside of the Alphington Paper Mill major regeneration area.

Enhance the quality of the public realm at the intersection of Heidelberg Road and the Chandler Highway.

Minimise direct vehicle access onto Heidelberg Road.

Support development along Heidelberg Road, east of Parkview Avenue that achieves fine grain building frontages and contributes to a positive pedestrian street environment, through appropriate street wall height, upper level setbacks and landscaping

Heidelberg Road Neighbourhood Activity Centre Plan

[Map to be reinserted]

Johnston Street, Abbotsford / Collingwood (East of Smith Street)

Promote the retail and community roles of the activity centre.

In Precincts 1 and 2, [as shown in the Johnston St Activity Centre Plan to this clause](#), foster mid-rise residential and commercial development consistent with the relevant overlay.

In Precinct 3, as shown in the Johnston St Activity Centre Plan to this clause, encouragedevelopment:

- To contribute to a fine grained, mixed use precinct with mid-rise development.
- To have an active frontage to Hoddle Street.
- To include a setback of the upper levels.
- To enhance the prominent corner at the intersection of Eastern Freeway and HoddleStreet

In Precinct 4, as shown in the Johnston St Activity Centre Plan to this clause, encouragedevelopment to:

- Contribute to a fine grained, mixed use precinct with mid-rise development.
- Have an active frontage to Hoddle Street.
- Include a setback of the upper levels.
- Provide a transition in scale from Hoddle Street to the adjacent low rise residential area.

In Precinct 5, as shown in the Johnston St Activity Centre Plan to this clause, encouragedevelopment to:

- Include a setback of the upper levels.
- Provide for a consistent streetscape, through building setbacks and street wall height.
- Provide a transition in scale to adjacent low rise residential area
- Maintain the warehouse character of this precinct.

In Precinct 5 shown in the Johnston Street Activity Centre Plan to this clause encourage office, residential and commercial uses that foster the knowledge and creative sectors, including creativespaces and artist studios.

In Precinct 6 shown in the Johnston Street Activity Centre Plan to this clause support education,arts and community based activities to foster a community hub and arts Precinct.

In Precinct 7 shown in the Johnston Street Activity Centres Plan to this clause encourage spacing between buildings to allow for views from Trenerry Crescent to the river.

In Precinct 8 shown in the Johnston Street Activity Centres Plan to this clause encourage new development to [be](#) sensitively located and subservient to the existing built form.

Johnston Street Activity Centre Plan

[Map to be reinserted]

Johnston Street (west of Smith St)

Promote the retail and service role of the activity centre. ~~defined in the Major and Neighbourhood Activity Centres in Fitzroy Plan.~~

Manage licensed premises and support the precinct's night-time economy including the many bars, cafes and restaurants.

West of Brunswick Street, retain the visual prominence of the Victorian and Edwardian heritage streetscape and street corner sites, through appropriate upper level setbacks and mid-rise scale.

Between Smith and Brunswick Street, support mid-rise development on the north side of Johnston Street, where there is less heritage constraints.

Between Smith and Brunswick Street, encourage lower ~~rise~~ mid-rise development on the south side of Johnston Street that responds to the heritage forms and sensitive residential interface.

Nicholson Street, North Fitzroy

Support a mix of uses along Nicholson Street, in particular uses which provide the day to day needs of the local community.

Protect the heritage shopfronts and verandahs.

Retain the visual prominence of the heritage streetscape and buildings

Encourage the redevelopment of land at 9 - 49 Scotchmer Street in a manner that contributes to an attractive public realm and responds to surrounding heritage area.

Rathdowne Street, Carlton North

Support a mix of uses along Rathdowne Street, in particular uses which provide the day to day needs of the local community.

Protect the historic significance of the precinct, which includes heritage shopfronts and verandahs.

Support low-rise development where it respects the heritage character of the activity centre.

St Georges Road, North Fitzroy

Support a mix of uses along St Georges Road, in particular uses which provide the day to day needs of the local community.

Support development that contributes to attractive pedestrian links to community facilities and Edinburgh Gardens.

Protect the historic significance of the precinct.

Nicholson Street, Rathdowne Street and St. Georges Road Neighbourhood Activity Centre Plans

[Map to be reinserted]

Queens Parade, Clifton Hill and Fitzroy North

Support development that recognises the importance of Queens Parade as a focus for the

local community, offering a diverse mix of shopping, business and community services, leisure and residential opportunities.

Support development that recognises Queens Parade as a wide, tree-lined and heritage-rich boulevard with five distinct precincts as shown ~~on the Queens Parade Framework Plan~~ in the relevant Design and Development Overlay.

Queens Parade Activity Centre Plan

[Map to be reinserted]

~~11.03-1L~~ LOCAL ACTIVITY CENTRES (~~LACS~~)

Maintain the local convenience retail role of the municipality's local activity centres: ~~as shown on the Local Activity Centre Plans:~~

- Berry Street/Ramsden Street, Clifton Hill.
- Lygon Street, Carlton North / Princes Hill.
- Nicholson Street ([south](#)), Carlton North.
- Rathdowne Street ([north](#)), Carlton North (near Richardson St).
- Spensley Street, Clifton Hill.

Ensure any development respects the character [and heritage significance](#) of the centre.

Local Activity Centres

Berry Street/Ramsden Street and Spensley Street Activity Centre Plans

[Map to be reinserted]

Lygon Street, Nicholson Street and Rathdowne Street north Activity Centre Plans

[Map to be reinserted]

Clause 15.03-1L (Heritage)

15.03-1L Heritage

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Proposed C269yara Policy application

This policy applies to all land within a Heritage Overlay.

Objective

To conserve and enhance Yarra's natural and cultural heritage.

To preserve the scale and pattern of streetscapes in heritage places.

To ensure the adaptation of heritage places is consistent with the principles of good conservation practices.

To promote signs that conserve and enhance the significance of a heritage place.

Strategies

New development, alterations or additions

Retain, conserve and enhance ~~and protect~~ individually significant and contributory buildings as identified in the incorporated document in schedule to clause 72.04 'City of Yarra Database of Heritage Significant Areas.'

Promote development that is high quality and respectful in its design response by:

- Maintaining the heritage character of the existing building or streetscape.
 - Respecting the scale and massing of the existing heritage building or streetscape.
 - Retaining the patterns and grain of streetscapes in heritage places.
 - Not visually dominating the existing heritage building or streetscape.
 - Not detracting from or competing with the significant elements of the existing heritage building or streetscape.
 - Maintaining the prominence of significant and contributory elements of the heritage place.
 - Respecting the following elements of the heritage place:
 - Pattern, proportion and spacing of elements on an elevation.
 - Orientation to the street.
 - Setbacks.
 - Street wall.
 - Relationship between solid and void.
 - Roof form.
 - Chimneys.
 - Verandahs and canopies.
 - Materials.
 - Being visually recessive against the heritage fabric through:
 - Siting.
 - Mass.
 - Scale.
 - Materials.
 - Architectural detailing.
 - Textures, colours and finishes.
- ~~▪ Linking additions to historic form.~~

Protecting and conserving the view of heritage places from the public realm (except from laneways, unless fabric visible from laneways is identified as being significant in

[the Statement of Significance for the place](#)).

Use materials and finishes that minimise the visual impact of development by:

- ~~Avoiding highly contrasting, vibrant colours and reflective materials (not including solar panels).~~
- ~~Reflecting the historic character of the place.~~

Maintain views to the front of an individually significant or contributory building or views to a secondary façade where the building has two street frontages by not:

- Building over the front of it.
- Extending into the air space above the front of it.
- Obscuring views of its principal façade/s.

Set back additions:

- To avoid facadism, where only the visible façade is retained and the remaining fabric is demolished.
- To maintain the visibility of the three-dimensional form and depth of a building.

Retain or reinstate ~~original historic~~ street ~~furniture and bluestone road or laneway materials and details~~ [and laneway fabric and infrastructure, including bluestone.](#)

In circumstances where primary pedestrian access is provided from a laneway, allow for any reinstatement [of the laneway fabric](#) to provide universal access.

~~Ensure that adaptation of heritage places is consistent with the principles of good conservation.~~

Demolition

Prioritise ~~preservation, restoration and adaptation~~ [the conservation and adaptive reuse](#) of a heritage place over demolition.

Avoid the demolition of individually significant or contributory buildings unless all of the following can be demonstrated:

- The building is structurally unsound rather than just in poor condition.
- Alternative stabilisation works have been investigated [and are not feasible](#).
- The replacement building and/or works ~~clearly and positively supports the ongoing heritage significance of the place~~ [is appropriate for the heritage context](#).

Avoid the demolition of any part of an individually significant or contributory building unless all of the following can be demonstrated:

- ~~The fabric does not contribute to the significance of the place.~~
- The demolition will not adversely affect the significance of the heritage place.
- The partial demolition will contribute to the long-term conservation of the heritage place.
- The [fabric does not contribute to the significance of the place or](#) the area of demolition is not visible from:
 - The street frontage other than a laneway, [unless:](#)
 - [the principal façade addresses the laneway; or](#)
 - [the fabric visible from the laneway is identified in the Statement of Significance.](#)
 - A park or public open space immediately adjoining the site.
- The removal of part of the building allows its three-dimensional form to be retained and does not result in the retention of only the visible facade of the building and demolishing the remainder.
- The replacement building is a high quality design.

~~Require~~ [Encourage](#) all applications for demolition to be accompanied by an application

for new development.

Avoid the demolition of an individually significant or contributory building unless new evidence has become available to demonstrate that the building ~~does not possess the level of heritage significance attributed to it in the incorporated document City of Yarra Database of Heritage Significant Areas (Revised February 2018)~~ is not of heritage significance and does not contribute to the significance of a heritage place.

Residential alterations or additions

Set back buildings and works to ~~the~~ a minimum depth of two front rooms to retain the original or early ~~elements of the~~ fabric of the individually significant or contributory building, its principal façade and primary roof form.

~~Require~~ Ensure that buildings and works to heritage places on corner sites or sites with dualfrontages to roads are:

- Set back to match the setback of the individually significant or contributory building or the adjoining building, whichever is the lesser.
- Read as a secondary element when viewed from the adjoining street.

Avoid additions that are taller than the individually significant or contributory building except in circumstances where the development is:

- Appropriately set back from the front and side facades.
- ~~Proportional to~~ Respectful of the scale of the individually significant or contributory building.
- Substantially concealed.

Residential infill development

Set back residential infill development ~~a similar distance from the principal street frontage to those~~ to match the setback of the principal street frontage of adjoining heritage buildings.

Ensure that buildings and works associated with residential infill development are consistent with:

- Prevailing side setbacks and building spacing.
- Height, relative to the surrounding context.

Encourage new residential infill development to reflect the prevailing roof pitch and form.

Avoid using atypical buildings to determine the appropriate siting, form and appearance of new development in the context of its surrounds.

Commercial and ~~former~~ industrial heritage places

Articulate new façades by incorporating simple architectural detailing that does not compete with the more elaborate detailing of ~~the~~ adjoining individually significant or contributory buildings.

Retain the visual prominence of both facades of buildings on corner sites (not including laneways).

Avoid the following in the facades of individually significant and contributory buildings:

- New openings.
- Enlarging existing openings.
- New floor plates, walls, columns or structural supports cutting through openings.
- Highly reflective glazing in historic openings (not including solar panels).
- Large expanses of glazing with a horizontal emphasis, except for ground floor shop fronts.
- Unarticulated curtain glazing.
- Balconies in historic openings.

Commercial heritage places

~~Require~~ Encourage all buildings and works to respect and respond to the existing proportions, patterning and massing of nineteenth and early twentieth century facades and streetscapes.

Maintain the prominence of the street wall through appropriate upper level setbacks.

~~Require~~ Encourage new development in activity centres to respect the prevailing street wall height in the immediate area.

~~Protect and conserve~~ Conserve and enhance heritage shopfronts and verandahs.

~~Require that~~ Encourage new shopfronts to complement the general form and proportion of glazing and openings of adjoining original or early shopfronts, if any.

Maintain the existing canopy / verandah height of adjoining heritage buildings and the heritage streetscape.

~~Require~~ Support a simple contemporary verandah design, consistent with the form and scale of adjoining verandahs.

~~Require~~ Support inset balconies above the street wall rather than projecting balconies.

Incorporate an angled splay to buildings on street corners where these are present on adjacent or opposite corners.

~~Retain the visual prominence of both facades of buildings on corner sites (not including laneways):~~

~~Former~~ Industrial heritage places

~~Protect and conserve~~ Conserve and enhance roof forms that contribute to the significance of the building, particularly those parts that are visible from the public realm or incorporate features such as lanterns, skylights and vents ~~or chimneys~~.

~~Protect and conserve~~ and enhance features such as steel trusses, lanterns, chimneys, silos, towers and their visual prominence within industrial sites.

Encourage new ~~buildings and works~~ development on small scale one or two storey industrial buildings ~~not to exceed the visible volume of the historic form~~ that does not visually dominate the historic form when viewed from the public realm.

Retain redundant equipment on significant industrial sites where it aids the understanding of the heritage place.

Relocation

Retain a heritage place or a contributory element to a heritage place in its original location unless:

- The location is not an important component of the cultural significance of the heritage place.
- It can be demonstrated that the relocation is the only reasonable means of ensuring the retention of the heritage place.
- A suitable location is secured.

Restoration and reconstruction

Retain the significance of the heritage place and the original fabric through:

- Restoration (returning a place to a known earlier state by removing accretions or by reassembling existing elements without the introduction of new material).
- Adaptive re-use.
- Reconstruction, where evidence exists (returning a place to a known earlier state, including the introduction of new material).

Support the reconstruction of a building or works that previously existed in a heritage place if:

- The reconstruction will support the significance of the heritage place.
- Evidence exists to support the accuracy of the reconstruction.

Encourage the reconstruction of a missing building in an otherwise identical row or pair of buildings if it supports the cultural significance of the heritage place.

Painting and surface treatments

Support the removal of paint and other surface treatments from originally unpainted/untreated masonry surfaces by non-abrasive methods.

Retain historic painted signs.

~~Avoid sand and high pressure water blasting of render, masonry and timber surfaces.~~

Avoid the painting, rendering or other surface treatments of unpainted surfaces.

Where external paint controls apply, ensure paint colours and types are consistent with the period of construction and architectural style of the heritage place.

Trees, landscapes, parks and gardens

Where tree controls apply, support the retention of ~~culturally~~ significant ~~(including those of aesthetic, historic, scientific, social or spiritual value for past, present or future generations)~~ trees in a heritage place unless it is demonstrated that the trees:

- Have deteriorated due to old age or disease to a point that retention is unsafe.
- Are causing structural damage to an existing structure and remedial measures (such as root barriers and pruning) are not possible.

~~Require that~~ Ensure works do not impact on the health or viability of ~~culturally~~ significant trees.

~~Require~~ Ensure that works are respectful of ~~culturally~~ significant trees and significant garden layouts by siting development in a manner that will not impact on the cultural significance of the landscape.

Maintain the ~~cultural~~ significance of historic parks, ~~and~~ gardens and street trees by ensuring new development is sited and designed in a manner appropriate for the heritage place.

Subdivision

Retain the significant or contributory elements of a heritage place within a single lot, including buildings, outbuildings, trees or gardens.

~~Require~~ Support subdivision ~~to that~~ respects and responds to the significance of the heritage place including the original road and lot layout, the rhythm and pattern of building frontages and/or buildings in the streetscape.

Ensure that the subdivision of former industrial complexes reflects or interprets the historical arrangement of the heritage buildings or processes.

Services and equipment

~~Require~~ Ensure that the location and installation of services and equipment does not detract from the significance of the heritage place or damage the heritage fabric.

Conceal solar panels, water tanks, hot water systems, air conditioners and other mechanical equipment from street view or where this is not possible, sensitively locate and install these services.

~~Support~~ Ensure fixed mobility services and equipment (including wheel chair ramps and grab-rails) ~~where they have been~~ are designed having regard to the heritage place.

Roof terraces and roof decks

Set back roof terraces/roof decks so that they are concealed when viewed from the street and where on a corner, when viewed from the side street.

~~Require that~~ Encourage roof terraces/roof decks that are set back a minimum of one metre from chimneys and parapets.

~~Avoid uncovered or open upper level decks and balconies and glass balustrades where they are visible from the front street and when on a corner, the side street.~~

~~Require~~ Ensure that stairwells, lift wells and lift overruns are not visible when viewed from the public realm.

Fences and gates

Retain original fences and gates that contribute to the significance of the heritage place.

~~Require~~ Support front fences and gates that ~~to~~ allow views to heritage places or contributory elements from surrounding streets.

Avoid high fencing, gates and boundary treatments (such as roller doors) on the principal street frontage that are unrelated to the historic character of the area.

Ensure that fences and gates are sympathetic to the period of construction and architectural style of the heritage place.

Archaeological sites

~~Encourage applicants to consult with Heritage Victoria to facilitate compliance with Part 6 of the Heritage Act 2017.~~

~~Require an archaeological assessment where there is a known site of archaeological significance.~~

Signs

Locate signs in traditional locations on a heritage building.

Discourage signs that disrupt a historic facade, parapet or roofline.

Ensure signs avoid damaging the heritage fabric.

Conserve original signs and advertising features.

Policy Guidelines**Signs**

Consider as relevant:

Discouraging the following signs in heritage places:

- High wall signs outside commercial areas.
- Major promotion signs.
- Promotion signs.
- Panel signs.
- Pole signs.
- Internally illuminated and electronic signs at upper levels.
- Animated signs.
- Sky signs.
- Above-verandah signs, unless they are part of the existing character.
- Signs that project from the verandah or building outside commercial areas.