

Planning and Environment Act 1987

Panel Report

Yarra Planning Scheme Amendments C218 and C219

Rezoning of sites in Trenerry Crescent, Abbotsford

25 October 2017

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Panel Report pursuant to section 25 of the Act

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Geoff Underwood, Chair



Amanda Cornwall, Member

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List of Abbreviations

DDO1	Design and Development Overlay, Schedule 1 (Yarra (Birrarung) River Corridor Environs)
DELWP	Department of Environment, Land, Water and Planning
DPO14	Development Plan Overlay, Schedule 14
DTPLI	Department of Transport, Planning and Local Infrastructure (former)
EAO	Environmental Audit Overlay
EPA	Environment Protection Authority
ESO1	Environmental Significance Overlay – Schedule 1 (Yarra River Environs)
HO337	Heritage Overlay (Schedule 337 – Victoria Park Precinct)
IPO2	Incorporated Plan Overlay, Schedule 2
JSLAP	Johnston Street Local Area Plan
LPPF	Local Planning Policy Framework
MMSL	Mandatory Minimum Setback Line
MSS	Municipal Strategic Statement
MUZ	Mixed Use Zone
NRZ	Neighbourhood Residential Zone
RGZ	Residential Growth Zone
SLO1	Significant Landscape Overlay, Schedule 1 (Yarra (Birrarung) River Corridor Environs)
SPPF	State Planning Policy Framework
VPP	Victoria Planning Provisions

Overview

Amendment Summary

The Amendments	Yarra Planning Scheme Amendments C218 and C219
Brief description	The Amendments rezone land from Commercial 2 Zone to Commercial 1 Zone (C218) and Mixed Use Zone (C219) to facilitate development for residential and commercial uses. Amendment C218 applies an Incorporated Plan Overlay and Amendment C219 applies a Development Plan Overlay to the respective sites to guide future development. The Amendments reflect the requirements of Design and Development Overlay Schedule 1 (Yarra River Corridor Protection) (DDO1) and the heritage values of existing buildings on the subject sites in Heritage Overlay (Schedule 337 – Victoria Park Precinct) (HO337).
Subject sites	18-62 Trenerry Crescent, Abbotsford (C218) 112-124 and 126-142 Trenerry Crescent, Abbotsford (C219)
The Proponents	Joval Pty Ltd for C218 and Australian Education Union for C219
Planning Authority	Yarra City Council
Authorisation	<p>Granted on 8 November 2016 with the following conditions:</p> <ul style="list-style-type: none"> the Amendments must be consistent with the Yarra River Corridor Controls which were at the time being prepared by the Department of Environment, Land, Water and Planning for Amendment C218 the proposed Schedule 2 to the IPO must be drafted in accordance with the Minister’s Direction on the <i>Form and Content of Planning Schemes for Schedules to the Incorporated Plan Overlay</i> for Amendment C219 the proposed Schedule 14 to the DPO must be drafted strictly in accordance with the Minister’s Direction on the <i>Form and Content of Planning Schemes for Schedules to the Development Plan Overlay</i> for Amendment C219 any clerical or minor errors in the Building Heights Plan within the proposed Schedule 14 to the DPO be amended to the satisfaction of DELWP officers prior to exhibition. <p>In its Part A submission Council outlined how the conditions have been complied with. The Victorian Government gazetted the Yarra River Corridor Controls in the form of GC48 on 24 February 2017. Council addressed the new DDO1 in post exhibition changes to the Amendments.</p>
Exhibition	24 November to 24 December 2016.

Post exhibition changes to Amendments

On 4 July 2017 Council endorsed post exhibition changes to the Amendments that include:

- A proposal to require a traffic impact assessment at the planning permit stage and to secure a proportional contribution from the proponents to the cost of traffic signals and works to manage increased traffic resulting from the developments;
- Changes necessary to align with revised Design and Development Overlay Schedule 1 (DDO1) for the Yarra River gazetted in February 2017, which include:
 - mandatory controls for building heights and setbacks, and
 - controls to limit overshadowing of the Yarra River.
- Introducing controls that give further recognition of the heritage values of buildings on each site.

Submissions

There were 16 submissions for each Amendment. Of those submissions, 14 were by the same people or organisations for both Amendments.

Objections and concerns

Most of the submitters either objected to or expressed concerns about the Amendments based on impacts on local traffic and parking, the removal of third party rights under a DPO and IPO, inadequate building height and setback requirements to protect visual impacts on the Yarra River, and inadequate protection of heritage buildings.

Support

The proponents for each Amendment supported the Amendments with the exception that the Proponent for C219 did not support the proposed publicly accessible shared pathway through the middle of their site.

One other submitter supported Amendment C218.

Panel Process

The Panel

Geoff Underwood (Chair) and Amanda Cornwall. Trevor McCullough was chair of the Panel for the Directions Hearing.

Directions Hearing

25 July 2017 at Planning Panels Victoria, 1 Spring Street, Melbourne

Panel Hearing

9, 10, 11 August 2017 at the Collingwood Town Hall and 16, 17 and 18 August 2017 at the Richmond Town Hall

Site Inspection

Accompanied, 9 August 2017

Appearances

Greg Tobin, Harwood Andrews Legal and Evan Burman for Yarra City Council who called the following expert witnesses:

- Mr Jason Sellars, GTA Consultants on traffic
- Mr Jim Gard'ner, GJM Heritage on heritage (by Skype).

Jeremy Gobbo QC for the C218 Proponent instructed by Romy Davidov, Best Hooper, who called the following expert witnesses:

- Charmaine Dunstan, Traffix Group on traffic
- Brodie Blades, David Lock Associates on urban design
- Bryce Raworth, Bryce Raworth and Associates on heritage
- Peter Lovell, Lovell Chen on heritage
- Stuart McGurn, Urbis on town planning
- John Patrick, John Patrick and Associates on landscape (provided expert report but did not appear).

Matthew Townsend, for the C219 Proponent instructed by Nick Sissons, Holding Redlich who called the following expert witnesses:

- Mr John Glossop, Glossop Town Planning on town planning
- Ms Deborah Donald, O'Brien Traffic on traffic
- Mr Mark Sheppard, David Lock Associates on urban design
- Mr Bruce Trethowan on heritage (provided expert report but did not appear).

Andrew Rasulo for VicRoads.

Janet Taylor for Collingwood Historical Society.

Clare Scarlett attended for Boroondara City Council on day 1 only.

Date of this Report

25 October 2017

Executive Summary

(i) Summary

Rezoning of sites in Trenerry Crescent, Abbotsford (the Amendments) seek to rezone two sites on Trenerry Crescent Abbotsford from Commercial 2 Zone to allow the development of the sites for mixed use including commercial and residential uses.

Strategic planning for the Trenerry Crescent area and the two sites support the rezoning and redevelopment of the sites consistent with recent development in the area. The sites are two of three sites remaining for redevelopment. The Amendments have strong strategic planning support.

Trenerry Crescent is within a Heritage Overlay for the broader Victoria Park Precinct and the two sites each contain buildings of heritage significance under the Overlay. One of the sites at 112-12 and 126-142 Trenerry Crescent has a significant building that will influence any redevelopment proposal.

Land fronting the east side of Trenerry Crescent also backs onto the Yarra River corridor. Recent amendments to the Yarra River controls have applied a new level of development control not in operation at the time of exhibition of Amendments C218 and C219. The Minister for Planning's authorisation for the preparation of the Amendments included a specific requirement that the form of the amendments had to be in strict compliance with the form of Design and Development Overlay 1 now applying to the sites. The Yarra City Council made variations to the exhibited form of the amendments to reflect the provisions of DDO1 and the development constraints applying to the sites.

Presentations to the hearing by the Council as the planning authority and the proponents for Amendments C218 and C219 sought variations to the exhibited documents according to their interpretation of the new controls.

Submissions to the amendments were made by residents of Trenerry Crescent concerned at the impact of traffic from the redevelopment to follow rezoning, the impact of development on the river corridor and heritage issues.

VicRoads appeared at the hearing to further its submission that redevelopment of the sites would add to traffic problems at the intersection of Trenerry Crescent and Johnston Street and to call for contributions from the landowners toward any works necessary to mitigate traffic impacts. During the hearing, VicRoads changed its submission to relinquish the idea of contributions to works.

The protection of the Yarra River corridor is supported by the C218 and C219 Proponents. Each landowner accepts the responsibility to protect the river corridor from additional overshadowing, to limit the visibility of buildings from the river corridor and the Capital City Trail that runs along the riverbank and the imposition of development constraints in the resulting controls implemented by DDO1 and the respective Incorporated Plan Overlay and the Development Plan Overlay.

The key issues at the hearing focussed on the form of the heritage and planning controls for each site. After exhibition of the Amendments, council sought and obtained heritage advice

that proposed additional layers of control through the IPO and the DPO as well as citations specially prepared for each site. The council relied upon the advice of its heritage adviser to propose increased protection of existing buildings and to enhance the heritage values of each site. On the other hand, each of the proponents submitted evidence from their own advisors.

The respective submissions presented the Panel with the task of framing controls that allowed redevelopment opportunities while respecting the sensitivity of the Yarra River and environs as required by the DDO1, the heritage of the Victoria Park Precinct and the individual buildings as well as impacts on the local area. The Panel has redrafted the IPO and the DPO and the associated documents to achieve a balance between what might be thought to be competing objectives. The Panel's preferred form of the revised IPO2, DPO14 and the heritage citation for the building at 18-62 Trenerry Crescent are included as appendices.

This report deals provides specific recommendations for Amendments C218 and C219 after discussing the issues that are common to each.

The Panel recommends that the Amendments be adopted with the changes as recommended and contained in the revised documents.

The Panel recommends approval notwithstanding the submissions from local residents who sought the rejection of the rezonings on traffic grounds. The Panel agrees with each of the traffic experts who appeared at the hearing who advised that in their opinion there would be some increase in traffic from the redevelopments to follow but the increases would be marginal and not sufficient to warrant rejection of the Amendments.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Rezoning of sites in Trenerry Crescent, Abbotsford be adopted as exhibited subject to the following modifications:

1. In Amendment C218

- a) delete any duplication of Design and Development Overlay Schedule 1 provisions in Incorporated Plan Overlay Schedule 2 but include a reference to applicable Design and Development Overlay Schedule 1 requirements and retain specific provisions that add to Design and Development Overlay Schedule 1, and**
- b) delete parts of the Incorporated Plan for the building height and set back provisions of Design and Development Overlay Schedule 1 and add a note that Design and Development Overlay Schedule 1 applies, and express a discretionary preferred maximum 25 metre height (see Appendix C).**

2. In Amendment C219

- a) delete any duplication of Design and Development Overlay Schedule 1 provisions in Development Plan Overlay Schedule 14 but include a reference to applicable Design and Development Overlay Schedule 1 requirements and retain specific provisions that add to Design and Development Overlay Schedule 1, and**

- b) delete parts of the Indicative Framework Plan for the building height and set back provisions of Design and Development Overlay Schedule 1 and add a note that Design and Development Overlay Schedule 1 applies, and express a discretionary preferred maximum 25 metre height (see Appendix E).
 3. Retain the provision in Amendments C218 and C219 requiring the proponent to provide a traffic and car parking impact assessment but delete reference to it being to the satisfaction of VicRoads and the requirement for proponents to contribute to mitigation works. The Panel's preferred version of the relevant provisions are set out in Appendices C and E.
 4. In Amendment C218
 - a) Adopt the form of Incorporated Plan Overlay Schedule 2 as contained at Appendix C to clarify building height controls
 - b) Adopt the statement of significance for 18-62 Trenerry Crescent Abbotsford as presented by Mr Lovell for the C218 Proponent and included at Appendix D.
 5. Adopt the form of Incorporated Plan Overlay Schedule 2 as contained at Appendix C to improve form and content of the overlay and the Indicative Framework Plan.
 6. Adopt the heritage citation for the former Austral Silk and Cotton Mills warehouse and factory complex as prepared by GJM Heritage for inclusion as a reference document at Clause 22.02-8.
 7. Adopt the form of Development Plan Overlay Schedule 14 as contained at Appendix E.
 8. Delete the requirement for the publicly accessible shared path shown on the Indicative Framework Plan and adopt the wording on the Panel preferred form of the Indicative Plan at Appendix E.

1 Introduction

1.1 The Amendments

1.1.1 Purpose of the Amendments

Amendments C218 and C219 are two separate proposals to rezone land along Trenerry Crescent, Abbotsford to facilitate mixed use development for residential and commercial uses. The subject sites are currently Commercial 2 Zone (C2Z).

The Amendments recognise the heritage values of existing buildings on the sites as set out in Heritage Overlay (Schedule 337 – Victoria Park Precinct) (HO337). The Amendments also reflect the special controls that apply to developments on the Yarra River Corridor under the Design and Development Overlay, Schedule 1 (Yarra River Corridor Protection) (DDO1) with effect from February 2017.

The Amendments ensure necessary environmental assessment of the sites to address any potential soil contamination by applying the Environmental Audit Overlay (EAO).

Description of Amendment C218

Amendment C218 proposes to rezone land at 18-62 Trenerry Crescent from C2Z to Commercial 1 Zone (C1Z) and to apply an Incorporated Plan Overlay (IPO) that provides site specific guidance on a future development proposal.

The building at 18-62 Trenerry Crescent is an *Individually Significant* heritage building affected by HO337. It comprises a heritage building at the corner of Trenerry Crescent and Turner Street with alterations and extensions principally to the rear in 1984.

Description of Amendment C219

Amendment C219 proposes to rezone two properties at numbers 112-124 and 126-142 Trenerry Crescent from C2Z to the Mixed Use Zone (MUZ). The proponent currently occupies and operates the recently refurbished building at 126-142 Trenerry Crescent as a commercial site.

The Amendment proposes to apply a Development Plan Overlay (DPO) with a new Schedule 14 (DPO14) to the site to manage future development of either property to achieve positive public realm, urban design and built form outcomes.

The building at 112-124 Trenerry Crescent is an *Individually Significant* heritage building affected by HO337. Its future use is reliant on the adaptability of the building which was part of the former Austral Silk and Cotton Mills Factory complex.

1.1.2 The subject sites

Amendment C218 applies to land at 18-62 Trenerry Crescent, Abbotsford and Amendment C219 applies to 112-124 and 126-142 Trenerry Crescent shown in Figure 1.



Figure 1 The subject sites

1.2 Background to the proposals

Amendment C218 was prepared at the request of the landowner, Joval Pty Ltd (C218 Proponent). Representatives for the C218 Proponent have discussed potential rezoning of the C218 site with Council officers since 2011.

Amendment C219 was prepared at the request of the landowner the Australian Education Union (C219 Proponent). In March 2016 representatives of the C219 Proponent presented Council with a proposal for Amendment C219.

1.3 Issues dealt with in submissions and post exhibition changes

Council received 16 submissions. The submitters were the same for both amendments, except the respective proponents and two individual submitters. See Appendix A.

Submitters raised a number of issues which Council summarised in its Part A submission.¹ Common themes across the submissions were as follows:

- (a) increased traffic volume and need for traffic management measures
- (b) protection of heritage buildings on the respective sites
- (c) building heights and setbacks (sometimes related to consistency with DDO1)
- (d) visual impact of new development on the Yarra River corridor
- (e) impact of increased population on infrastructure, character and amenity
- (f) removal of third party rights as a result of an IPO for C218 and a DPO for C219.

¹ Document 1, Appendix B.

The proponents supported the Amendments as exhibited except that the C219 Proponent opposed a requirement to provide a publicly accessible shared pedestrian and cycling path through the middle of the two properties.

In response to submissions, Council sought further advice on heritage and traffic issues, which informed changes to the amendments. The proponents also commissioned consultants to undertake further work on traffic impact assessment, and visual impact analysis.

Revised DDO1 was gazetted on 24 February 2017, introducing mandatory maximum building heights and setbacks, and controls to limit overshadowing and provide protection of the Yarra River.

Upon receipt of the further expert advice it commissioned, and upon the changes to DDO1, Council made a number of substantial post exhibition changes to the Amendments:

- to align the Amendments with the revised DDO1 for the Yarra River corridor
- to require a traffic impact assessment with the planning permit and consideration of a financial contribution by the proponents to any traffic mitigation works
- to introduce new controls that further recognise the heritage values of existing heritage buildings.

At the ordinary Council meeting on 4 July 2017 Council resolved to:

- Endorse the post exhibition changes to the Amendments
- Include heritage citations prepared for the Council by GJM Heritage (GJM) as reference documents to clause 22.02-8 (Development guidelines for sites subject to the Heritage Overlay – references)
- Request the Minister for Planning to appoint a Panel to consider the Amendments in accordance with section 23 of the Planning and Environment Act.

Council notified submitters of the changes on 11 July 2017. Details of the post exhibition changes to the Amendments are set out in Council's Part A submission.²

1.4 Issues dealt with in this report

Council requested the Panel hear the Amendments together because of the common issues and common submitters. In this report, the Panel has grouped issues that are common to both Amendments and addressed specific issues in separate chapters.

This report deals with the issues under the following headings:

- Section 1 - Issues common to both Amendments
- Strategic policy and the nature of the planning controls
 - Policy framework
 - Planning Scheme Provisions
- Issues common to both Amendments
 - DDO1 Yarra River corridor controls
 - Traffic issues

² Document 1, Attachment D for Amendment C218 and Attachment E for Amendment C219.

- Section 2 – Issues specific to each Amendment
- Issues specific to Amendment C218
 - Heritage
 - Discretionary heights
 - Form and content of Amendment C218 and IPO.
- Issues specific to Amendment C219
 - Heritage and urban design
 - Form and content of Amendment C219 and DPO
 - Requirement for public shared pathway.

The Panel has provided the recommendations for each Amendment separately, as requested by Council.

Section 1 – Issues common to both Amendments

2 Strategic policy and nature of controls

Council provided a response to the Strategic Assessment Guidelines as part of the explanatory report to the exhibited Amendments. The Panel has reviewed Council's response and the policy context of the Amendments, and has made its appraisal of the relevant zone and overlay controls and other relevant planning strategies.

2.1 Policy framework

2.1.1 State Planning Policy Framework

Council's Part A submission stated that the State Planning Policy Framework (SPPF) provisions most relevant to the Amendments are:

- Clause 11 – Settlement;
- Clause 12 – Environmental and Landscape Values;
- Clause 13 – Environmental Risks;
- Clause 15 – Built Environment and Heritage;
- Clause 16 – Housing; and
- Clause 17 – Economic Development.

Council stated that the Amendments respond to the SPPF as follows:³

- The rezoning of the C218 and C219 sites will contribute to the provision of serviced land for housing and diversity of choice; it will provide opportunity for new uses to establish to broaden the mix in the area and provide employment opportunities (Clause 11).
- IPO2 in Amendment C218 and DPO14 in Amendment C219 will apply controls and guidelines consistent with DDO1 and SLO1 to respond to the significance and values of the Yarra River corridor (Clause 12).
- The application of the EAO will ensure any potentially contaminated land is suitable for its intended future use and development (Clause 13).
- IPO2 in Amendment C218 and DPO14 in Amendment C219 will guide development to provide an appropriate built environment and public realm whilst respecting the natural environment (Clause 15).
- The rezoning of the C218 and C219 sites will provide for diversity of housing that is integrated, accessible, sustainable and proximate to activity centres, public transport, schools and open space (Clause 16).
- The C1Z in Amendment C218 and MUZ in Amendment C219 will encourage economic development and allow for mixed use activities and higher density on the well-located sites (Clause 17).

The Amendments support the following policies and directions in Plan Melbourne 2017-2050, which has been approved by Government since the exhibition of the Amendment:

- *Direction 2.2: Deliver more housing closer to jobs and public transport.*
- *Policy 2.2.3: Support new housing in ... places that offer good access to jobs, services and public transport.*
- *Direction 4.4: Respect Melbourne's heritage as we build for the future.*

³ Document 1, paragraphs 64-73.

- *Policy 4.4.1: Recognise the value of heritage when managing growth and change.*

The evidence of Mr Stuart McGurn, town planning expert for the C218 Proponent, and Mr John Glossop, town planning expert for the C219 Proponent, support Council's view on the relevant state planning policy.

The Panel agrees with Council's analysis of the applicable provisions of the SPPF.

2.1.2 Local Planning Policy Framework

The Amendments respond to the Local Planning Policy Framework (LPPF), which comprises the Municipal Strategic Statement (MSS) at clause 21 of the Yarra Planning Scheme and specific local planning policies. The LPPF includes several provisions relevant to the Amendments, including:

- Municipal Profile (Clause 21.02);
- Vision (Clause 21.03);
- Land Use (Clause 21.04);
- Built Form (Clause 21.05);
- Transport (Clause 21.06);
- Environmental Sustainability (Clause 21.07);
- Neighbourhoods (Clause 21.08);
- Development Guidelines for Sites Subject to the Heritage Overlay (Clause 22.02);
- Environmentally Sustainable Development (Clause 22.17).⁴

Council submitted that broadly the Amendments respond to the vision and objectives in the LPPF as follows:

- *The C218 and C219 sites are well-located to allow the type of development envisaged by the LPPF, which responds to the opportunities emerging from the changing economic structure of the city.*
- *The Amendments will provide increased flexibility for a wider range of uses (including residential), which will enhance commercial activity in the area.*
- *The application of the IPO and DPO controls will ensure that new development addresses the urban design objectives and strategies in the LPPF.*
- *The C218 and C219 sites are located adjacent to the Yarra River. They are well connected to public transport, the Capital City Trail and main roads and present significant opportunity for new development.*

The evidence of Mr McGurn and Mr Glossop, support Council's view on the relevant local planning policy.

The Panel agrees with Council's analysis of the applicable provisions of the LPPF.

2.1.3 Other planning strategies or policies used in formulating the Amendment

Yarra Business and Industrial Land Strategy

⁴ Document 1, paragraphs 74-76.

Council adopted the *Yarra Business and Industrial Land Strategy* (BILS) in 2012 to guide decision-making relating to future land use, strategic planning and rezoning requests.

BILS recommended as follows for 'CIB 3 – Trenerry Crescent Node':⁵

Rationale: This precinct has an interface with the Yarra River which should be maximised through employment and business opportunities. The precinct is deemed unsuitable for future industrial investment and it is recommended that areas of Business 3 Zone6 be rezoned to Business 2 Zone. Existing Business 2 and 5 zone areas should be retained.

- *Recommended Zones: Retain current zoning arrangements pending further investigation.*
- *Undertake master planning for this area to deal with urban design and access issues and in particular the interface with Yarra Parklands.*

Council completed the further investigation and master planning as part of the *Johnston Street Local Area Plan* (JSLAP), which Council adopted in December 2015.

Johnston Street Local Area Plan and Amendment C220

The strategic basis for the Amendments is supported in the JSLAP, which includes as a land use recommendation:⁷

Retain employment generating land uses activities along Trenerry Crescent, whilst permitting residential uses and encouraging mixed use activities that respect the Yarra River corridor.

With respect to built form, the JSLAP makes the following recommendation:⁸

Ensure that development respects the natural, vegetation dominated characteristics of the Yarra River corridor through recessive, high quality architectural design that displays well-articulated built form.

The subject sites are located within Precinct 7 of the JSLAP (Trenerry Crescent). It describes the future character of the precinct as an ... *eclectic mix of existing heritage buildings and well designed newer buildings ... [where] ... a mix of offices and residential apartments brings life to the street.*

Precinct 7 contains the following built form guidelines and principles:

Trenerry Crescent Interface

- *Street wall/façade height: 4 storeys (15m)*
- *Max height: 6-8 storeys (25m)*

⁵ Page 44.

⁶ The C218 and C219 sites were zoned Business 3 at the time. On 15 July 2013, land zoned Business 3 was converted to C2Z.

⁷ Page 44.

⁸ Page 50.

- *Upper levels should be set back to reduce visual impact and overshadowing of public and private spaces.*⁹

It also addresses the River Interface and references DDO1.

Council prepared Planning Scheme Amendment C220 to implement the JSLAP in two of its precincts which do not include Trenerry Crescent. Amendment C220 was granted conditional Ministerial authorisation on 9 March 2017. Since then, Council has undertaken further urban design analysis and plans to reconsider Amendment C220 later in 2017.

2.2 Planning scheme provisions

2.2.1 DDO Schedule 1 (Yarra (Birrarung) River Corridor Protection)

DDO1 sets out objectives, permit requirements, application requirements and decision guidelines relating to the Yarra River corridor.

The explanatory report for Amendment GC48 which introduced the DDO1 controls summarises the changes as introducing:

...mandatory overshadowing, building height and setback requirements for private land within close proximity to, or abutting the Yarra River. ... discretionary controls relating to overshadowing of public open space, permeable surface minimums, materials selections and other siting and design of built form requirements.

GC48 replaced existing DDO controls in the Yarra, Boroondara and Stonnington planning schemes. The C218 and C219 sites are now shown on DDO1 Map Area C with the mandatory building height and setback requirements.

The revised DDO1 is an interim control with an expiry date of 31 January 2021.

Council submitted that the exhibited Amendments were consistent with the revised DDO1, but Council endorsed a number of minor post-exhibition changes in response to Amendment GC48 and submitter concerns. The changes modify how building heights are specified in the Incorporated Plan to the IPO in Amendment C218 and in the Indicative Framework Plan in DPO14 in Amendment C219.

The mandatory building heights and set back requirements in DDO1 are discussed in detail in chapter 3.1.

Significant Landscape Overlay – Schedule 1 (Yarra (Birrarung) River Corridor Environs)

At the time of exhibition, an Environmental Significance Overlay – Schedule 1 (Yarra River Environs) (ESO1) applied to the sites. DDO1 replaced the ESO1 with the Significant Landscape Overlay – Schedule 1 (Yarra (Birrarung) River Corridor Environs) (SLO1).

Like the DDO1, the SLO1 sets out objectives, permit requirements, application requirements and decision guidelines relating to the Yarra River corridor.

The SLO1 is an interim control with an expiry date of 31 January 2021.

⁹ Johnston Street Local Area Plan, page 55.

2.2.2 Heritage Overlay – Schedule 337 (Victoria Park Precinct, Abbotsford)

The sites have buildings that are included within the Heritage Overlay (HO337 – Victoria Park Precinct) so planning permit applications are considered against the provisions of the Heritage Overlay and heritage policy in Clause 22.02 of the Yarra Planning Scheme.

The Heritage Overlay includes the following within its purpose:

To conserve and enhance heritage places of natural or cultural significance.

To conserve and enhance those elements which contribute to the significance of heritage places.

To ensure that development does not adversely affect the significance of heritage places.

The Heritage Overlay requires a permit to subdivide land, demolish or remove a building, construct a building or carry out works. It provides that before deciding on an application the responsible authority must consider certain matters including:

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

Any applicable statement of significance, heritage study and any applicable conservation study

Whether the location, bulk, form and appearance of the proposed building will adversely affect the heritage place

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

The *City of Yarra Review of Heritage Overlay Area 2007, HO337 Victoria Park Heritage Overlay Area, Abbotsford* includes a Statement of Significance for the Victoria Park Heritage Overlay Area (Industrial sub-area). Under the heading ‘What is significant?’, the statement includes the following under the sub-heading ‘Industry’:

The massive Austral Silk and Cotton Mills complex was built at the north end of Trenerry Crescent in 1927 and the Yarra Falls Spinning Mills had also expanded in the area during the early 20th century. Their administrative complex was built in 1919 facing Johnston St and the landmark 1930s Byfas building was built, facing Trenerry Crescent, to produce textiles during World War Two. The combination of these extensive industrial complexes has a strong built character that is evident from within the Heritage Overlay Area and from distant views down the Yarra River and the Eastern Freeway.

In the last two decades of the 20th century, these large industrial and mill buildings have been gradually decommissioned and recycled for light industrial, commercial or residential uses. Some of these developments have been innovatory in the re-use of significant industrial structures, such as Daryl Jackson’s award winning design for the Esprit company in the 1980s.

The *City of Yarra Review of Heritage Overlay Areas 2007, Appendix 8* identifies whether sites subject to the Heritage Overlay are ‘individually significant’, ‘contributory or ‘not

contributory'. Appendix 8, as revised in May 2017, is an incorporated document in the Schedule to Clause 81.01. It identifies:

- 18-62 Trenerry Crescent as individually significant, described as a 'factory/warehouse complex, later Esprit offices' and dated '1890-1925, 1982'.
- 112-120 Trenerry Crescent as individually significant, described as 'Austral Silk and Cotton Mills factory/warehouse complex, former' and dated 1927.

The Scheme does not currently incorporate or refer to statements of significance for 18-62 Trenerry Crescent or 112-124 Trenerry Crescent.

Council endorsed a number of post exhibition changes to the Amendments in July 2017 to reinforce the requirements of the Heritage Overlay and the heritage significance of the individually significant buildings. The Council's proposed changes to the Amendments are discussed in chapters 4 and 5.

2.2.3 Land Subject to Inundation Overlay

The Land Subject to Inundation Overlay (LSIO) applies to each of the properties and sets out objectives and application requirements in relation to the potential flooding impacts on sites and seeks to ensure that built form responses minimise the impacts of flooding.

2.3 Nature of the controls

2.3.1 Proposed planning controls

The proposed planning controls for C218 rezone the land to C1Z, apply an Incorporated Plan Overlay (IPO) – Schedule 2 and apply the Environmental Audit Overlay (EAO).

The proposed planning controls for Amendment C219 are to apply a MUZ, apply a Development Plan Overlay (DPO) – Schedule 14 (DPO14) and apply the EAO.

The Panel has assessed the appropriateness of the overlays and zones and whether the Council should apply the same zone to the whole of Trenerry Crescent. The urban design evidence, particularly the JSLAP and DDO1 indicates that Council should treat all of Trenerry Crescent as one unit, with one zone and one overlay.

Council stated that the proponents chose the IPO and DPO as the most appropriate planning control for the respective sites.

Council considered the IPO to be appropriate as part of Amendment C218 to specify both:

- land use requirements, to ensure a minimum of 20 per cent of the floor space in any new development for office, retail, commercial or other employment-generating uses; and
- built form requirements, to ensure a built form outcome that responds to the site's interface with the Yarra River corridor and public realm along Trenerry Crescent and Turner Street.

Council stated that it considered the DPO an appropriate control for Amendment C219 to manage future development to ensure it:

- is respectful of the Yarra River corridor and the heritage building at 112-124 Trenerry Crescent; and
- delivers benefits to the public realm, including:

- the retention of views to the Yarra River corridor from Trenerry Crescent between 112-124 and 126-142 Trenerry Crescent; and
- connectivity improvements for pedestrians and cyclists by a shared path through the site, linking Trenerry Crescent and the Capital City Trail.

2.3.2 Purposes of IPO and DPO

The purposes of an IPO and DPO according to *Planning Practice Note 23 – Applying the Incorporated Plan and Development Plan Overlays* (August 2015) (PPN23) are:

- to identify areas that require the planning of future use or development to be shown on a plan before a permit can be granted
- to exempt a planning permit application from notice and review if it is generally in accordance with an approved plan.

An IPO and DPO both:

- require a plan to be prepared before a permit is granted, unless the schedule specifies otherwise;
- guide the content of that plan through requirements identified in the schedule; and
- remove notice requirements and third party review rights for planning permit applications that are ‘generally in accordance with’ the plan. This aspect of the overlays is discussed in further detail below.

The key difference is:

If the planning authority uses an IPO, the plan will be an incorporated document, part of the planning scheme. A planning scheme amendment will be needed to introduce or change the plan.

If the planning authority uses a DPO, the plan will be a development plan. A development plan is not incorporated into the planning scheme. It can be introduced or changed ‘to the satisfaction of the responsible authority’.¹⁰

Council stated that Amendment C218 proposes to apply the IPO and to incorporate the plan. There will only be further opportunity for third party input into the plan for Amendment C218 if changes are subsequently sought to that plan.

PPN23 advises that:¹¹

The IPO requirement for a planning scheme amendment to incorporate or change the plan enables third parties to be involved in the process of making or changing the plan. For this reason, the IPO should normally be used for sites that are likely to affect third-party interests and sites comprising multiple lots in different ownership.

Because the DPO has no public approval process for the plan, it should normally be applied to development proposals that are not likely to significantly affect third-party interests, self-contained sites where ownership

¹⁰ PPN23, page 3.

¹¹ PPN23, page 3.

is limited to one or two parties and sites that contain no existing residential population and do not adjoin established residential areas.

Council stated it decided to consider the stricter set of factors identified in PPN23 for the DPO in relation to both Amendments. It noted that:

- both sites are in single ownership;
- neither site contains an existing residential population; and
- neither site directly interfaces with residentially zoned land, although the land to the west of Trenerry Crescent is located in the Neighbourhood Residential Zone.

Council stated that it considered the key difference between the use of the overlays in these Amendments is that Amendment C218 includes the plan to be incorporated, and therefore provides a higher level of certainty as to the use and development outcome on that site.

It stated that Amendment C219 retains more flexibility, with a development plan to be prepared at a later date. This is more attractive to the C219 Proponent, which advised the Panel that it does not propose to develop the site at this stage. It has recently refurbished the building at 126-142 Trenerry Crescent which it is currently occupying.

2.3.3 Third party rights

The IPO and DPO parent provisions provide exemption from notice and review of *any application under any provision of this scheme which is generally in accordance with the incorporated plan or development plan respectively.*

Submissions 6, 8 and 14 (Collingwood Historical Society, Collingwood and Abbotsford Residents' Association Inc., and Yarra Riverkeepers Association) expressed the view that the Council should not apply an IPO and DPO to the sites because they exempt notice and review rights for third parties at the permit application stage.

Council submitted that the relevant question is whether sufficient community consultation has been undertaken in relation to the Amendments to justify the exemptions. This includes the level of detail made available for the community to consider and the degree of specificity in the planning controls.

Council's submission noted the comments of the Panel in Amendment C185 to the Ballarat Planning Scheme, which considered the introduction of a Special Use Zone that effectively removed third party notice and review rights. The Panel concluded that:¹²

... the rigorous controls and planning undertaken for SUZ15 as part of this Amendment, including the community consultation undertaken, justifies the exemption applying.

¹² Panel report dated 4 September 2015, page 110.

Council submitted that *the Amendments have provided an appropriate opportunity for the community and affected parties to make submissions about future development on the sites and provide input into the content and detail of the proposed provisions.*¹³

Council stated that it ensured that the absence of future notification and review rights was clearly communicated when providing notice of the Amendments. The letters sent to owners and occupiers in the surrounding area included a factsheet that stated:

It is important to note that this is [a] critical stage in the planning process as there would be no requirement for the community to be notified about future planning permit applications on the sites.

Council submitted that the proposed planning controls provide sufficient specificity and certainty to manage future development outcomes in conjunction with the planning controls that already apply to the Amendment sites.

The Collingwood Historical Society submitted that an IPO and a DPO are not appropriate. They stated that the owners benefit by fast tracking future development without further third party input but there is no clear benefit to Yarra City Council, its residents and ratepayers or to other Melbournians who enjoy the Yarra River and its surrounds.

2.3.4 Proposed zones

Both Amendment sites are currently located within C2Z. The purpose of the C2Z includes:

To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.

To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.

The use of land for 'Accommodation (other than Caretaker's house, Motel and Residential hotel)' is prohibited in the C2Z.

The other sites on the eastern side of Trenerry Crescent are located within C1Z with the exception of the site on the corner of Johnston Street. The zones are depicted in Figure 2 below.

¹³ Document 17, paragraph 40.

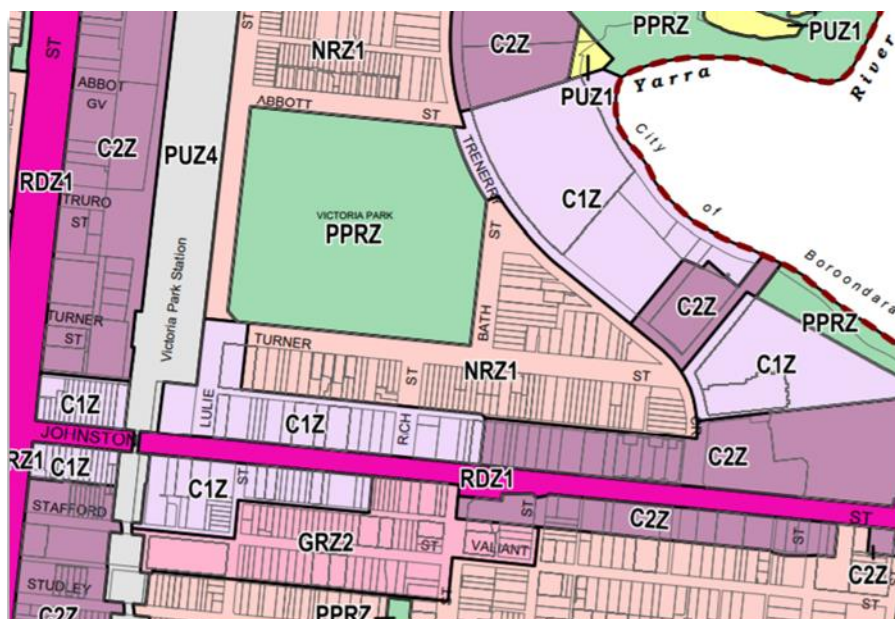


Figure 2 Zoning on Trenerry Crescent

The future zones along the eastern side of Trenerry Crescent are specifically considered in the JSLAP which states as follows with respect to the CIB 3 – Trenerry Crescent Node:

Trenerry [sic] Crescent has only three sites that remain within the Commercial 2 Zone as most sites have been redeveloped for residential and mixed use activities (apartments). The remaining three sites present opportunities for mixed use developments with a mix of office/commercial and residential uses. New development will need to consider the sensitive interface of the Yarra River corridor and respond accordingly.

The BILS recommends rezoning to allow a mix of office and residential uses. The three sites that remain in the Commercial 2 Zone should be rezoned to the Mixed Use Zone to facilitate the mixed-use development that is consistent with the trends that have occurred along Trenerry Crescent in recent years.¹⁴

The ‘remaining three sites’ identified in the JSLAP include the two present Amendment sites.

The Land Use Framework Plan in the JSLAP depicts the eastern side of Trenerry Crescent, including the Amendment sites as ‘mix of offices and residential uses, sensitive to the river corridor’.¹⁵

Amendment C218 – Commercial 1 Zone

Rezoning the C218 site from C2Z to C1Z would allow its redevelopment to include residential use which Council considered to be appropriate and not contested.

The purpose of the C1Z includes:

To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.

¹⁴ Johnston Street Local Area Plan, page 18.

¹⁵ Johnston Street Local Area Plan, page 45.

To provide for residential uses at densities complementary to the role and scale of the commercial centre.

Council submitted that the outcome of Amendment C218 will be to create consistency of zoning with the adjoining sites to the north and south.

Council submitted that the application of C1Z along the eastern side of Trenerry Crescent is appropriate having regard to the size of the sites and their excellent access to:

- public transport, including the Victoria Park train station and bus routes along Johnston Street;
- open space, including adjacency to the Yarra River parkland and Capital City Trail and proximity to Victoria Park; and
- the Johnston Street Neighbourhood Activity Centre.

The C218 Proponent's town planning expert Mr McGurn concluded that the proposed rezoning to C1Z is appropriate.¹⁶

Amendment C219 – Mixed Use Zone

Council supported the proposal by the C219 Proponent to rezone the land from C2Z to MUZ as it would allow the continuation of the proponent's business activities at 126-142 Trenerry Crescent, as well as a mix of uses on both sites including dwellings.

The purpose of the MUZ includes:

To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.

To provide for housing at higher densities.

To encourage development that responds to the existing or preferred neighbourhood character of the area.

Under the MUZ, 'Dwelling (other than Bed and breakfast)' is a section 1 (permit not required) use.

Council submitted that rezoning the C219 site from C2Z to MUZ would allow its redevelopment to include residential use which Council considers to be appropriate and not contested.

Council stated that it was satisfied that the purpose provisions within the MUZ are appropriate for this site and reflect the outcomes sought through application of the DPO and proposed schedule. The MUZ is the zone specifically proposed for this site in the JSLAP.

It submitted that the application of a residential zone in this location constitutes an appropriate response to the adjacent C1Z while achieving a sensible zoning transition at the end of the parcels to the east of Trenerry Crescent.

The report of the C219 Proponent's town planning expert, Mr Glossop, concludes that the proposed rezoning is appropriate.¹⁷ Mr Glossop acknowledges that the 'intended mix of

¹⁶ Document 7, page 11.

¹⁷ Document 12, page 10.

uses' proposed for this site could also be achieved within the C1Z, but he prefers the MUZ due to the condition that attaches to dwellings as a section 1 use in the C1Z.

2.4 Ministerial Directions and Practice Notes

2.4.1 Ministerial Directions

Council submitted that the Amendment meets the relevant requirements of the following Ministerial Directions:

- Ministerial Direction 11 (Strategic Assessment of Amendments) and Planning Practice Note 46 (Strategic Assessment Guidelines).
- Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.

2.4.2 The Form and Content of IPO and DPO

The authorisation for Amendment C218 required that the proposed Schedule 2 to the IPO must be drafted in accordance with the Minister's Direction on the Form and Content of Planning Schemes for Schedules to the Incorporated Plan Overlay. This is discussed in chapter 4.2.

The authorisation for Amendment C219 required that the proposed Schedule 14 to the DPO must be drafted strictly in accordance with the Minister's Direction on the Form and Content of Planning Schemes for Schedules to the Development Plan Overlay. This is discussed in detail in chapter 5.2.

2.4.3 Repetition of control provisions

Both the C218 Proponent and the C219 Proponent made submissions that the terms of the control documents should be amended to remove what were described as repetitive and therefore unnecessary provisions in the respective overlays and plans. The thrust of the submissions was that repetition across the controls must be avoided to meet the requirements of the direction on the Form and Content of Planning Schemes. Witness statements from heritage and urban design experts sought changes on the grounds of improving the relevance of the documents while the planning experts argued for improved readability and clarity, among other things. The import of the changes varied for all experts but the effect of Mr Glossop's list of changes would result in severe editing of the relevant overlay for the C219 site.

Council on the other hand, submitted that some repetition is acceptable depending on the purpose of the control and the function of the repeated provision.

2.5 Discussion

2.5.1 Policy framework and strategies

The Amendments enjoy strong strategic support and are consistent with the directions and policies of the metropolitan strategy and in Plan Melbourne 2017-2050. They are supported by the JSLAP which recommends a mix of employment generating activities and residential uses for Trenerry Crescent with future built form that respects the characteristics of the Yarra River corridor.

The Amendments are consistent with DDO1 and SLO1 relating to the Yarra River corridor and the requirements in the local planning scheme of the HO337 Victoria Park Heritage Overlay Area. The details of how the Amendments should reflect the DDO1 controls are discussed in chapter 3.1 and details of the proposed heritage requirements in the Amendments are discussed in chapters 4 and 5.

2.5.2 Nature of the controls

The Panel has assessed the appropriateness of the overlays and zones and whether the same zones and overlay controls should apply to the whole of Trenerry Crescent. The urban design evidence, JSLAP and DDO1 suggest that Council should treat all of Trenerry Crescent as one unit, with a single mixed use zone and one overlay. However, the circumstances for the proposed uses for each site and the nature of the development proposals favour particular controls.

The Panel accepts the proposed planning overlays are appropriate for the specific circumstances of each proponent. An IPO for C218 is justified to achieve the land use and built form requirements sought by Council, specifically 20 per cent of total floor space for commercial use. The plan to guide future use and development will become part of the planning scheme and any changes will require a further amendment.

A DPO is justified for C219 to achieve the proposed retention of views and public realm improvements and to facilitate staged development on the two properties. It reflects the fact that the C219 Proponent has no proposal for the site and allows changes to the development plan to the satisfaction of the responsible authority.

The Panel is also satisfied that the IPO for Amendment C218 and the DPO for Amendment C219 are consistent with PPN23.

The proposed zonings in the Amendments are appropriate. In Amendment C218 the C1Z will create consistency of zoning with the adjoining sites to the north and south. The MUZ for Amendment C219 achieves a zoning transition from C1Z at the north end of Trenerry Crescent.

2.5.3 Repetition of control provisions

The Panel interprets Council's approach to mean that some repetition is acceptable in circumstances where an overlay is tailored and applies to a single site. The content can include provisions primarily found elsewhere in the planning scheme (such as other overlay requirements that could otherwise be missed) and the function of repeating provisions is to draw attention to those other requirements.

The Panel applies that approach to judge whether requirements and provisions present in the planning scheme can be cited in DDO14 and IPO2.

The Panel is supported in this approach with the current structure of the VPP using cross references in zones and overlays to other control provisions to point to the relevance and application of those provisions. For example, a clinical no-repetition approach would see the deletion of the commonly used provision:

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

There are other examples in the VPP of the referencing of relevant provisions such as particular provisions in Clause 52, the objectives and standards of Clause 56 as well as the objectives, standards and decision guidelines of Clause 58 for an apartment development.

The Panel sees a difference between editing documents to satisfy a type of compliance audit against an approach to allow repeat provisions where the purpose and function warrant it. There is a balance to be achieved between drafting planning documents with a clinically applied pen and expressing the outcome to be achieved under the controls.

2.5.4 Third party rights

In proposing the IPO and DPO, the proponents have agreed to a level of control and prescription not applied to neighbouring sites. There are legitimate concerns that proposals generally in accordance with an approved plan under an IPO or a DPO are exempt from third party notification and review rights at the planning permit stage. The counterbalance is that the community has been given notice of the controls with the opportunity to influence future development through submissions on the DPO and IPO.

The Panel believes that the IPO and DPO provide detailed guidance for future development on the respective sites. The Panel also believes that through the Amendment process the community and affected parties have had sufficient detail and opportunity to have input on the directions of future development on the sites.

2.6 Conclusion

The Panel recommends the adoption of the Amendments subject to modifications in response to submissions on the Yarra River corridor controls, traffic impacts, heritage, and matters of form and content, which are discussed in the following chapters. In determining what modifications to recommend, the Panel has allowed some repeat provisions across the various documents where it will draw attention to those other requirements and articulate the outcome to be achieved.

Particular recommendations for each matter are detailed in relevant sections of the report.

3 Issues common to both Amendments

3.1 DDO1 Yarra River corridor controls

3.1.1 What is the issue?

The issue is how the controls in DDO1 should be reflected in IPO2 and DPO14. The DDO1 control expires in January 2021 and is regarded by the proponents as an interim control. A question arises about whether the IPO and DPO should duplicate provisions of DDO1 at all to avoid potential future inconsistency or confusion.

The Minister's authorisation to prepare and exhibit the Amendments in 2016 required them to be consistent with any future changes to the planning controls for the Yarra River.

The most contentious control in DDO1 is the mandatory maximum building height with setback requirements for Trenerry Crescent, Area C. Other provisions set objectives, decision guidelines, application requirements and development principles.

Both proponents submitted that the DPO and IPO should include a discretionary preferred maximum building height of 25 metres that would apply if the mandatory maximum building height of 25 metres in DDO1 expires in 2021 or is amended.

The C218 Proponent seeks a discretionary maximum building height of 26 metres measured from the natural ground level at the Trenerry Crescent frontage.

3.1.2 Evidence and submissions

(i) DDO1 and post exhibition changes

The exhibited Amendments provided a maximum discretionary building height expressed as *8 storeys (25 metres)*, with variation in built form to manage the views to and from the Yarra River.

Submissions 4, 5, 6, 7, 8, 10, 11, 12 and 14 (Boroondara City Council, the Collingwood Historical Society, Collingwood and Abbotsford Residents Association, Melbourne Water, and the Yarra Riverkeepers Association) expressed concerns about the impact of future built form on the Yarra River. Some submitters sought building heights that were lower, and some raised questions about consistency with the then DDO1. Some submitters expressed concern about the visual impact of future built form from viewpoints along the Yarra River corridor, including Dights Falls and Yarra Bend Park (within the Boroondara municipality), and overshadowing.

The DDO1 gazetted in February 2017 provides mandatory maximum building heights for future development along Trenerry Crescent and requires minimum setbacks for buildings from the Yarra River so that future developments do not cast any additional overshadowing of the Yarra River. The applicable Setback Map Reference Area C, DDO1 provides:

- *Mandatory Minimum Setback Line (MMSL): 30 metres (measured from the property boundary nearest the river).*
- *Maximum height:*
 - *between 0 and 5 metres from the MMSL: 11 metres.*

- *between 5 and 20 metres from the MMSL: 18 metres.*
- *beyond 20 metres from the MMSL: 25 metres.*

Council endorsed a number of post exhibition changes to the Amendments to reflect that the revised DDO1 now includes these mandatory requirements. The changes were as follows:

- For Amendment C218:
 - Remove the building heights specified in the Incorporated Plan to the IPO, subject to inclusion of a note on the plan that maximum building heights (not including the street wall height) must be in accordance with DDO1
 - Add a landscaped interface area to the Yarra River in the Incorporated Plan
 - Add an application requirement in the IPO requiring the design response to address the sensitive river corridor environs to minimise visual impacts
 - Extend the scope of the visual impact assessment to require it to include perspectives showing the visual prominence of the development from the public vantage points along the Yarra River corridor and Yarra Bend Park
 - A new decision guideline requiring the responsible authority to consider the extent to which the design of any building and the materials used minimises the visual impacts of built form when viewed from the Yarra River corridor and Yarra Bend Park
 - A new requirement for the Incorporated Plan to show areas of landscaping to minimise visual intrusion of development in the Yarra River corridor
 - A new Development Principle on set back from the Yarra River interface to provide a transition in built form and minimise the visual prominence of development from the Yarra River.
- For Amendment C219:
 - remove the Building Heights Plan at Figure 2, and in the Indicative Framework Plan at Figure 1 indicate the heights and setbacks mandated in the revised DDO1
 - In section 3 of the DPO, extending the scope of the visual impact assessment required as part of the application to include perspectives showing the visual prominence of the development from the public vantage points along the Yarra River corridor
 - In section 4, Vision, in the DPO add new clauses for the development to minimise the visual impact of new buildings from the Yarra River and adjacent public open space and ensure building elevations are presented at a variety of heights and stepped back from the frontage of the Yarra River and adjacent public open space.

(ii) Submission by C218 Proponent

Proponent issues

The C218 Proponent submitted that the IPO should nominate a discretionary building height of 26 metres, and that building heights should be measured from natural ground level at the centre of the Trenerry Crescent frontage.

The C218 Proponent relied on the urban design evidence of Mr Brodie Blades of David Lock Associates and the town planning evidence of Mr McGurn.

In support of its position the C218 Proponent submitted that:

- an overall height in the order of 8 storeys is supported by the JSLAP and DDO1
- a discretionary maximum height limit of 26 metres more appropriately allows for 8 storey development given the minimum floor to ceiling height limits for 2 commercial and 6 residential storeys (4 and 3.1 metres respectively)
- building heights should be measured from natural ground level at the centre of the subject site to avoid a wedding cake typology whilst allowing the built form to follow the slope of the land, an outcome contemplated by JSLAP and Council's draft DDO1.

The C218 Proponent submitted that discretionary height limits are generally the preferred means of guiding the height and scale of development. To support this position, the C218 Proponent cited sections of Planning Practice Note 59, *The role of mandatory provisions in planning schemes* which supports performance-based planning based on the principle that there should be discretion.

The submitter also stated that Council's strategic work on the *Yarra River Corridor Strategy 2015* and the JSLAP nominated discretionary rather than mandatory heights for Trenerry Crescent (Precinct 7 in JSLAP).

The C218 Proponent submitted that the future of the mandatory height limit in DDO1 is uncertain because it is interim and because it nominates discretionary heights for other riverside areas nearby (Areas E, F and G).

The C218 Proponent sought an acknowledgement that in February 2017 it had substantially prepared a scheme for the land based on the old DDO1 control. It stated that:

*The Proponent is now burdened with the lengthy and expensive task of formally opposing the height controls in DDO1. In the meantime discretionary height controls ought to be applied in the IPO...This will allow the best planning outcome in the long term and prevent the need for a further planning scheme amendment.*¹⁸

Provision for discretionary building height control

Mr Blades expressed the opinion that *the Incorporated Plan articulates a clear future overall height ambition of a discretionary maximum of 8 storeys (25m)*. He acknowledged that the JSLAP envisions a preferred future height of 6-8 storeys (25 metres) and DDO1 currently provides mandatory maximum height controls of 25 metres.

Mr Blades characterised DDO1 as *an interim control whose permanent provisions are yet to be finalised*.¹⁹ Mr Blades restated his position that a discretionary height control should be in place despite DDO1 because it would be necessary when the DDO1 interim control expires in 2021. He submitted that it is therefore appropriate from an urban design perspective *to consider the principle of maximum building height in the Incorporated Plan* particularly if the final DDO1 height controls allow the exercise of discretion regarding height on the site.²⁰

¹⁸ Document 29, paragraph 35.

¹⁹ Document 2, paragraphs 54-55.

²⁰ Document 2, paragraph 56.

Mr McGurn expressed the view that DDO1 is an interim control *presumably to allow for additional analysis to be undertaken*. But he considered that *...even if they are modified it remains likely that a high level of protection and control over development...will be maintained*.²¹

Mr McGurn stated if the DDO1 mandatory height limits are modified it would be preferable for the maximum height in the Incorporated Plan to be able to be varied to some degree.²²

Maximum building height of 26 metres

Mr Blades recommended that the maximum height on the C218 site be increased to a discretionary 26 metres. He stated that this is required because the IPO mandates a 20 per cent commercial floorspace requirement for future development of the site. In his opinion:

*A 25m overall preferred height control is not sufficient for flexibility in this sense as it appears to assume a single 4m commercial floor-to-floor height plus seven storeys of residential three metre floor-to-floor heights (4m [commercial ground floor] + 21m [3, FTF height x 7 storeys] = 25m. I recommend increasing the maximum building height on site to a discretionary 26m to allow greater flexibility in the fulfilment of the IPO2's commercial floorspace requirement across multiple storeys.*²³

Mr McGurn's report stated, on the other hand, that the proposed overall height limit of 25 metres is consistent with the heights envisaged by the JSLAP and DDO1.

Natural ground level

Mr Blades recommended inserting an annotation into the Incorporated Plan clearly stating that the reference point for building heights is the natural ground level at the site's frontage to Trenerry Crescent. He noted that the site is steeply sloping and *it is logical from a character perspective to avoid an overtly stepped future built form outcome by simply 'pegging' the intended height on site to natural ground level of the centre of the site's Trenerry Crescent interface*. He cited other mechanisms within the VPP such as many of the City of Melbourne Design and Development Overlays that adopt this approach.²⁴

Mr McGurn's evidence and expert report stated that the DDO1 requirements will limit development on the site to 25 metres above natural ground level at any point.

Other references to DDO1 in the IPO

Mr Blades and Mr McGurn both recommended deleting any reference to building heights in storeys in the IPO2 given that height in metres is the relevant consideration.

Mr Blades and Mr McGurn recommended deleting all replication of DDO1 requirements from the IPO and the Incorporated Plan on the basis that duplication may cause confusion or lead to inconsistency if the DDO1 is changed in future. Mr Blades stated that repeating the provisions of an interim planning control within an Incorporated Plan opens up the potential

²¹ Document 7, paragraphs 66 and 68.

²² Document 7, paragraph 72.

²³ Document 2, paragraph 62 and recommendation 4.

²⁴ Document 2, paragraph 59 and recommendation 2.

need for *another Amendment process in the future to be consistent with any change in the final, permanent Yarra River controls.*

Mr Blades recommended deleting:

- all reference to the specific provisions of DDO1 in the Incorporated Plan and any duplication of DDO1's objectives and design guidelines in IPO2 and the Incorporated Plan
- Application Requirements within IPO2 such as the requirement for a design response that addresses the sensitive river corridor environs
- the Decision Guideline in IPO2 that requires the responsible authority to consider the extent to which the design of any building minimises visual impacts when viewed from the Yarra River corridor
- any duplication of other relevant planning controls within the Purpose of the Incorporated Plan, specifically the second purpose which encourages new development that respects the sensitive Yarra River corridor interface, as a duplication of other controls.²⁵

Mr McGurn's report suggested refinements to the IPO to avoid duplication of the requirements in DDO1 and SLO1. He pointed to the additional landscaping requirements in the post exhibition versions of:

- IPO2, Application Requirements which require the design response in the permit application to address the sensitive river corridor environs; and
- the Development Principle in the Objectives of the Incorporated Plan, which states: *Provide for new development to be set back from the Yarra River interface to provide a transition in built form and minimise the visual prominence of development from the Yarra River corridor and Yarra Bend Park.*²⁶

Mr McGurn submitted that as a general principle there is no need to duplicate provisions in an IPO that are in other parts of the planning scheme. In response to questioning from Council he stated that little harm occurs if you do so, but he did not see the need.

The expert evidence on more general matters of Form and Content of the IPO is discussed in chapter 4.2.

(iii) Submission and evidence by C219 Proponent

C219 submission

The C219 Proponent submitted that the draft DPO14 should be amended to avoid duplication of controls and policies that already apply by reason of DDO1 and SLO1. The C219 Proponent submitted that duplicating other planning controls is poor drafting that leads to cluttered planning schemes and often poor and inconsistent outcomes. The C219 Proponent cited an example of the requirement in section 3 that the application include a visual impact assessment that provides perspectives showing the visual prominence of the development from public vantage points along the Yarra River corridor; DDO1 already

²⁵ Document 2, paragraphs 64-66, 86-90, recommendations 5, 8, and 9.

²⁶ Document 7, paragraph 67.

requires a visual impact assessment of proposed buildings from public viewing points with in the Yarra River corridor.²⁷

The C219 Proponent did not ultimately propose significant changes to how DPO14 addresses the provisions of DDO1. In a track changes version of DPO14 and the Indicative Framework Plan tabled at the hearing the C219 Proponent proposed revisions primarily address heritage, the public shared pedestrian pathway and form and content of planning scheme issues.²⁸ These are discussed in other parts of this report. The C219 Proponent proposed relatively minor editorial changes in relation to DDO1:

- *for refinements to Vision clauses so that building elevations are ‘sufficiently articulated’ rather than ‘presented at a variety of heights’, and deleting reference to maintaining key views to the Yarra River corridor*
- *to delete the Decision Guidelines Section which included a requirement that the responsible authority consider retaining views to the Yarra River corridor environs*
- *for a revised Indicative Framework Plan (IFP) which removes duplication of the building height controls in DDO1 and adds a note that DDO1 applies and a ‘preferred maximum 25m height’.*

Most of these changes followed the evidence of the C219 Proponent’s urban design expert, Mr Mark Sheppard of David Lock Associates. Mr Sheppard recommended that duplication of specific DDO1 requirements be deleted from DPO14 but that it should include a note that DDO1 applies.²⁹

Mr Sheppard tabled a recommended version of the IFP at the Panel hearing which included a note stating that: *The provisions of DDO1 relating to height and setback requirements applies.*

Mr Sheppard also suggested that changes to the IFP include a reference to *preferred 25m maximum height*. During cross examination by Council, Mr Sheppard clarified that the term ‘preferred’ maximum height did not mean ‘at least’ or any meaning different from DDO1.

Town planning evidence

The C219 Proponent presented town planning evidence from Mr Glossop who stated that he considers the landscape and environmental values of the Yarra River are properly protected by DDO1 and SLO1 and there is no need for Amendment C219 to duplicate them.

He cited the Principles in Practice Note 10, Writing Schedules which state that:

- schedules must be read with other planning controls
- local content should not duplicate other provisions.³⁰

²⁷ Document 40, paragraphs 53-60 and paragraph 67 (f).

²⁸ Document 35.

²⁹ Document 13, paragraphs 28-29 and recommendation 4.

³⁰ Document 12, paragraphs 61-63.

Mr Glossop's opinion was that to comply with the condition in the authorisation for Amendment C219 to be consistent with DDO1 Yarra River corridor controls, DPO14 should be amended to remove all requirements which seek to duplicate or paraphrase it.³¹

Mr Glossop stated that the sort of detail required in the Design Guidelines of DPO14 is either covered in DDO1 or should be addressed in the permit application.

He also stated that the building height and set back requirements from the Yarra River and the landscape designation along that interface in the Indicative Framework Plan should not replicate DDO1 requirements.³²

Mr Glossop considered that the whole IFP should be removed from DPO14. It was his opinion that *a DPO already provides for a plan to be approved under the overlay and it would be inappropriate to tie development on the site to one plan in the overlay schedule (without a planning scheme amendment)*.³³

(iv) Collingwood Historical Society submission

Submissions to the exhibited Amendments expressed concerns about building heights and setbacks along the Yarra River corridor. The Collingwood Historical Society submitted that the building height and setback controls in the revised DDO1 are not sufficient. They stated that there:

needs to be a greater set back from the crest line as well as from the river itself to protect views from Yarra Bend Park and Studley Park.

*The Amendments appear to be promoting monolithic 4 to 8 storey structures on these sensitive sites. While such developments would provide profitable apartments with pleasant views for the privileged few, it would further destroy the amenity of the river for all other Yarra residents and the rest of Melbourne.*³⁴

The mandatory maximum building height and setback controls in the revised DDO1 give assurance on some of those submissions.

(v) Council submissions

During the hearing Council agreed to remove the reference to the building height controls in DDO1 in IPO2 and DPO14 contingent on inserting the discretionary controls which could be expressed as 'preferred maximum'.

Council's closing submission stated that an additional discretionary building height control in the overlays is generally consistent with the JSLAP and it would *do no harm*. Council stated that the point of reference for building heights should be natural ground level, as provided in DDO1.

³¹ Document 12, paragraphs 65.

³² Document 12, paragraph 73.

³³ Document 12, paragraph 72.

³⁴ Document 14.

Council agreed that duplication of provisions of DDO1 in IPO2 and the Incorporated Plan are not absolutely necessary and could be deleted provided that the 25 metre building height control is inserted.

Council's closing submission on Amendment C219 agreed that any specific DDO1 requirements should be deleted from DPO14 to avoid duplication.

In the context of submissions on heritage controls in IPOs and DPOs, Council argued that they are a site specific control providing a one-stop-shop. He pointed to the Operation of the Overlays section of PPN23 which states that overlays are to be used to:

- *require a plan ... to coordinate proposed use or development before a permit can be granted*
- *guide the content of the plan by specifying that it should contain particular requirements*
- *provide certainty about the nature of the proposed development ...*

3.1.3 Discussion

Discretionary building height controls

The Panel has considered the urban design and town planning evidence that favours including an additional discretionary building height control expressed as a 'preferred maximum 25 metres' in IPO2 and DPO14. It is consistent with the building height limits envisioned in the JSLAP and the mandatory controls in DDO1, and would only apply if DDO1 is amended or expires in 2021 without being extended.

Proposed 26 metre building height and natural ground level in IPO2

The Panel appreciates the challenge for the C218 Proponent to achieve the 8 storeys it desires within a building height of 25 metres. However, the Panel is not convinced by their argument that because the JSLAP and the exhibited IPO mentioned 8 storeys that a discretionary building height control of 26 metres was envisaged.

The Panel accepts the C218 Proponent's position that the IPO is a framework control and should provide some flexibility and discretion. The IPO however must provide an appropriate level of certainty for future development in a way that is consistent with planning policy and strategy. A maximum building height of 25 metres and 6-8 storeys is expressed in the JSLAP and was part of the exhibited IPO2 and Incorporated Plan.

The Panel is not persuaded by the C218 Proponent's argument that the Incorporated Plan should include a note stating that the natural ground level is taken from the Trenerry Crescent frontage. The Panel relies upon the definition of Building Height in Clause 72 of the Planning Scheme, and the town planning evidence of Mr McGurn supports the Panel's position. The Panel does not see any reason to include a provision in the IPO seeking to interpret or contradict DDO1.

Duplication of DDO1 provisions

The Panel understands the Council position that IPOs and DPOs should provide a comprehensive site-specific control but the view is not supported by the expert evidence. The Panel agrees duplicating other planning provisions which may change is not good drafting practice. However, as stated at section 2.4.3, the Panel distinguishes between

duplication, the verbatim restating of provisions, and repetition that draws attention to a provision elsewhere in the planning scheme.

The Panel agrees with Council and the proponents that the building height controls in DDO1 should not be duplicated in IPO2 and DPO14, but believes the Incorporated Plan and the IFP should include a note that the DDO1 building height and set back controls apply.

The town planning and urban design evidence was clear that any provisions duplicating DDO1 should be deleted from IPO2 and DPO14 and Council agreed with this position. Because of their importance, the Panel sees merit in referring to DDO1 Yarra River corridor controls wherever they apply, such as in the permit application requirements.

The Authorisation for the Amendments required that the final form of the Amendments be consistent with DDO1. The Panel applies that direction in its deliberations. It would be difficult to demonstrate to the Minister that IPO2 and DPO14 are consistent with DDO1 and SLO1 if they are silent on the point.

3.1.4 Conclusions

The Panel believes that Amendment C218 should be amended so that the Incorporated Plan to the IPO includes a note that the revised DDO1 applies and expresses a preferred maximum 25 metre building height (not including the street wall height). Any duplication of DDO1 building height and set back provisions should be deleted and any reference to heights in storeys should be deleted.

The Panel concludes that Amendment C218 should not include a discretionary building height of 26 metres or a note that the reference point for natural ground level is the frontage to Trenerry Crescent.

For Amendment C219 the Panel concludes that the Building Heights Plan at Figure 2, and in the Indicative Framework Plan at Figure 1 should be removed. The Indicative Framework Plan should include a note that the revised DDO1 applies and state a discretionary preferred maximum 25 metre building height (not including the street wall height).

The Panel's preferred drafting for C218 and C219 is in appendices C and E.

3.1.5 Recommendation

The Panel makes the following recommendations:

- 1. In Amendment C218**
 - a) delete any duplication of Design and Development Overlay Schedule 1 provisions in Incorporated Plan Overlay Schedule 2 but include a reference to applicable Design and Development Overlay Schedule 1 requirements and retain specific provisions that add to Design and Development Overlay Schedule 1, and**
 - b) delete parts of the Incorporated Plan for the building height and set back provisions of Design and Development Overlay Schedule 1 and add a note that Design and Development Overlay Schedule 1 applies, and express a discretionary preferred maximum 25 metre height (see Appendix C).**

2. In Amendment C219

- a) delete any duplication of Design and Development Overlay Schedule 1 provisions in Development Plan Overlay Schedule 14 but include a reference to applicable Design and Development Overlay Schedule 1 requirements and retain specific provisions that add to Design and Development Overlay Schedule 1, and
- b) delete parts of the Indicative Framework Plan for the building height and set back provisions of Design and Development Overlay Schedule 1 and add a note that Design and Development Overlay Schedule 1 applies, and express a discretionary preferred maximum 25 metre height (see Appendix E).

3.2 Traffic issues

3.2.1 What is the issue

The issue is whether the developments under the Amendments will have a significant impact on traffic and whether the proponents should be required to conduct traffic impact assessments and make a proportional contribution to traffic mitigation works.

Submissions from seven local residents and VicRoads in response to the exhibited Amendments raised concerns about increased traffic in Trenerry Crescent particularly in peak hour and urged rejection of the Amendments because of traffic impacts. Some submissions supported traffic management measures such as traffic lights at the intersection of Trenerry Crescent and Johnston Street. VicRoads recommended traffic signals and sought a requirement at the permit stage that the developers undertake a traffic assessment and be required to contribute to the costs of any mitigation works that are required.

In response to the submissions Council commissioned expert traffic advice from GTA Consultants. The consultants agreed that traffic signals would be the most logical outcome for the intersection and outlined other measures to reduce traffic, such as creating a Green Travel Plan for both sites and promoting bicycle use, car share and use of public transport.

Council asked the proponents to commission expert reports following exhibition of the Amendments. Those reports, by Cardno and One Mile Grid, recognised that the developments would lead to increased traffic but did not conclude that traffic signals are needed.

In response to the VicRoads' submission and the expert traffic advice Council endorsed changes to the Amendments at its meeting on 4 July 2017. The changes would require the proponents to conduct a car parking and traffic impact assessment at the permit application stage as follows:

A car parking and traffic impact assessment that considers the provision of car parking, circulation and layout of car parking and the impact of any additional traffic on the surrounding road network, including the intersection of Trenerry Crescent and Johnston Street, and how any necessary mitigation measures and/or financial contributions towards works to mitigate the impact of the development are to be delivered, to the satisfaction of the responsible authority and VicRoads.

Council adopted the position that the most appropriate mechanism to secure the contributions would be through a Section 173 Agreement with the proponents.

3.2.2 Evidence and submissions

Council engaged Mr Jason Sellars of GTA Consultants to provide expert traffic evidence. Other traffic experts were engaged by the proponents with Ms Charmaine Dunstan of Traffix Group giving evidence on C218 and Ms Deborah Donald of O'Brien Traffic on C219. Mr Andrew Rasulo of VicRoads provided a submission and attended the Panel hearings.

Existing traffic problem

Johnston Street is an arterial road and Category 1 Road Zone under the jurisdiction of VicRoads. Trenerry Crescent is a Council managed local road. It is 400 metres from the Eastern Freeway and carries a high volume of through traffic that is avoiding traffic delays on Hoddle Street.

The expert reports describe Trenerry Crescent and its intersection with Johnston Street as presenting a number of challenges. Ms Dunstan described it is a local road that operates as a higher order collector road or limited arterial road because of its connectivity between Clifton Hill and Abbotsford. Ms Donald provided statistical information about vehicle numbers and evidence about traffic origins and destinations. The expert reports described a high volume of bicycle traffic on Trenerry Crescent because it is part of the Capital City Trail, and a high volume of pedestrian traffic because of the nearby Victoria Park train station.

Mr Sellars' expert report assessed the intersection performance and found that it performed with an intersection Degree of Saturation (DOS) of 1.00 during both the weekday AM and PM peak hours. He concluded that the intersection is operating at its theoretical capacity and the existing traffic conditions warrant the introduction of measures to address the capacity constraints.

Mr Sellars' report includes VicRoads data on traffic accidents at the intersection from June 2012 to 2017. There have been 5 accidents causing serious injury (at least one person was sent to hospital), 4 involving a cyclist and a vehicle and the fifth involving a rear end collision between vehicles.

Ms Dunstan's report discusses road safety issues and concludes that *the intersection is not inherently unsafe and the total number of crashes is more a reflection of higher traffic and cyclist numbers than any inherent concerns.*³⁵

VicRoads' submission to the Panel provides site observations from two inspections of the intersection, one during the AM peak and the other during the PM peak. It stated there is a steady traffic flow using Trenerry Crescent beyond what the local road network would generate. It also pointed to a constant stream of pedestrians walking to and from Victoria Park Station who have to cross Trenerry Crescent, often in conflict with turning traffic. The information observed a heavy demand for right turning traffic in the PM peak and a consistent demand for left turning traffic into Trenerry Crescent from Johnston Street despite a ban on this movement during the PM peak.

³⁵ Document 4, page 13.

Ms Donald's report stated that a reason for delays at the intersection arose because of poor road use by drivers blocking lanes on Trenerry Crescent.

Measures to address traffic

Mr Sellars' report canvasses three intersection improvement options. Option 1 canvasses traffic signals. He concludes that the intersection meets the thresholds for traffic volume and accidents under the guidelines for new traffic signal installations in the VicRoads Traffic Engineering Manual. Option 2 proposed limiting traffic movement to and from Trenerry Crescent by limiting left in and left out turning traffic and option 3 would remove a right turning movement from Trenerry Crescent.

Mr Sellars expressed the view that traffic signals should be installed at the intersection now. His report stated that traffic signals would address problems with the critical right turn movements but would increase delays and queuing. It would provide the highest form of control between competing vehicle, pedestrian and bicycle movements and result in safer intersection performance. In response to questions from the Panel, Mr Sellars offered no opinion on who should install or pay for the traffic signals.

Ms Dunstan stated that Council needs to decide what it wants to do to address the existing problems at the intersection. She stated that while VicRoads is responsible for intersections of two arterial roads, Trenerry Crescent is a local road and the responsibility of Council.

Ms Dunstan submitted that traffic signals would make the intersection safer but would attract more through traffic. Ms Dunstan submitted that the traffic problem is not a road safety issue; it is a result of through traffic and queuing. The authorities need to look at what the through traffic will tolerate. Banning left and right turns will be a deterrent. Traffic problems can be made worse by putting in traffic signals and taking out traffic management.

She stated that installing traffic signals is not necessarily the solution. It was her opinion that the types of accidents that have occurred with bicycles such as car dooring, left turn swipe and right turning cars hitting cyclists are not going to be fixed by traffic signals. Nor would the rear end crash have been prevented as traffic signals increase rear end crashes.

The Panel asked Ms Dunstan for her view on other proposed traffic treatments if no signals are installed. Ms Dunstan recommended a separate left turn lane and parking removal during peak times, and prohibiting right turn at PM peak saying that hardly anyone does it because it is so difficult and therefore there would be little impact. She said that even though there are few right turners they are blocking the left turners while waiting.

Mr Rasulo of VicRoads stated that he agreed with Ms Dunstan that traffic signals will not necessarily address the issues at the intersection. He also stated that there is not sufficient justification for VicRoads to install signals now because of competing funding priorities.

Ms Donald agreed the intersection at Johnston Street and Trenerry Crescent requires signalisation under present conditions. She stated that because the situation exists now, the cost of installation should be resolved between Council and VicRoads.

Council asked Ms Donald if it was her view that the need for signalisation now is the result of the volume of traffic and pedestrians or if it is through traffic or local traffic. She stated that if there was only local traffic the right turn out of Trenerry Crescent would still be an issue,

so the issue is not just volume. She stated that it is not just the traffic on Johnston Street, it is the combination of all of the traffic conditions.

Mr Rasulo of VicRoads asked Ms Donald whether it is her opinion that traffic signals reduce crashes at the intersection. She stated that she would need more details about the nature of the crashes to answer.

When asked if there are other treatments to improve safety for pedestrians and cyclists Ms Donald stated that there are some measures that could be done, but it depends on the specific causes of the crashes.

She stated that making it more difficult to exit out of Trenerry Crescent might help reduce traffic but the answer depends on sources and destinations of traffic with a study required to determine both and the nature of any changes before they were made.

Mr Rasulo asked Ms Donald whether traffic signals would benefit adjacent streets which have queuing in the peak times. She agreed that it is an area wide problem but that she had not been engaged to look at the area beyond Trenerry Crescent.

In response to a question from Mr Rasulo about the ban on right turns suggested by the other traffic experts she expressed the view that it would not be very helpful, and could have a negative impact.

The Panel asked Ms Donald for her opinion on Mr Sellars' proposals for improvements to the intersection based on current conditions, other than installing traffic signals. She stated that in a general sense the options could work but more study is required.

Impact of the developments on traffic

Mr Sellars stated that the indicative level of traffic increase from development of the sites would be marginal, perhaps between 1-2 per cent. His report assessed the impact on the performance of the intersection from the Amendment C218 site would increase from 1.00 (the existing DOS) to 1.03 during peak periods. He assessed the impact on the performance of the intersection from the Amendment C219 site would increase from 1.00 (the existing DOS) to 1.02 during peak periods.

For both sites combined he assessed the impact on the performance of the intersection would increase from 1.00 (the existing DOS) to 1.04 during the weekday AM peak and 1.03 during the weekday PM peak. The increases relate to the right turn movement from Trenerry Crescent during the weekday AM peak hour and the right turn movement from Johnston Street during the weekday PM peak hour.

Ms Dunstan's report provided detailed estimates of traffic volumes generated by the proposed development at the C218 site. She adopted a conservative residential traffic generation rate of 0.3 vehicle trips per peak hour per dwelling and 3 vehicle trips per dwelling per day. She based her assessment on a development yield of 45 office spaces, one food and drink premises and 160 apartments with 1 car space per apartment, which she regarded as relatively high for current developments in the Richmond/Abbotsford area.

Ms Dunstan's report forecasts that the additional dwellings would generate up to 48 additional movements in the commuter peak hours. She estimated that the development would generate up to 28 vehicle movements through the Johnston Street/Trenerry Crescent

intersection per peak hour and no more than seven additional movements in the critical right turn movements into or out of Trenerry Crescent.

Ms Dunstan found that additional traffic associated with the development of the C218 site will have negligible impact on the operation of the intersection of Trenerry Crescent and Johnston Street. She also found that the development can be accommodated with or without traffic signals. Ms Dunstan submitted that the proposed application requirements related to traffic engineering matters in the Council's Part A submission are appropriate.

Ms Donald submitted that there is no justification for requiring the C219 Proponent to contribute to cost of works to improve safety of the intersection. Her opinion is that if people are using Trenerry Crescent as a rat run now as her data shows, it would require considerable increase in traffic numbers to deter drivers from continuing to use the street.

She restated her evidence that she considers the VicRoads requirement that the traffic signals be developer funded to be excessive. She stated:

...there is no equity in requiring only the developers of three sites affected by C218 and C219 to contribute to the cost of installing traffic signals. I do not believe there is any nexus between the proposed Planning Scheme Amendments and the VicRoads position.

Ms Donald also answered in the negative a question from Mr Rasulo whether there should be a developer contribution of any sort to any measures.

The Panel asked each of the traffic witnesses how it should respond to submitters who opposed the rezonings on the basis of increased traffic and who sought rejection of the Amendments. Each of the experts took the view that the traffic impacts from each of the proposed developments are marginal and therefore submissions seeking rejection of the Amendments should not be upheld.

How the Amendment should address traffic

Mr Sellars stated that a reasonable expectation would be for both sites to make a contribution to any improvement works at the intersection of an amount commensurate with the impact on intersection performance. He estimated that the Amendment C218 site would increase the existing overall traffic volumes at the intersection during the weekday peak hours combined by 0.97 per cent and the Amendment C219 site will increase existing overall traffic volumes at the intersection during the weekday peak hours combined by 2.1 per cent.

Mr Sellars also recommended travel demand management strategies that could be implemented with the amendment sites to reduce traffic generated by any new development. These included reduced car parking provision for staff at commercial premises and residents, providing motorcycle parking, car share pods and bicycle facilities well beyond statutory requirements and preparing and managing a Green Travel Plan.

Ms Dunstan told the panel that having reviewed the material she believed that any reference in Amendment C218 to traffic works should be removed. She stated that the cost of doing the traffic studies to justify developer contributions would be more than the contribution itself.

Ms Dunstan stated that the Amendment cannot assign responsibility for traffic to the developers. The work has effectively already been done to demonstrate that the traffic impact of development of these sites will be negligible. She stated that she was concerned about the way the IPO is currently drafted.

The Panel asked Ms Donald if she agreed with the Council's revised position that it would no longer seek a contribution from the proponents as part of the Amendments but keep open the option of requiring a traffic impact assessment at permit application stage. Ms Donald agreed with no contribution being sought but does not agree with the requirement for a traffic impact assessment. In her opinion the traffic impact is going to be small whether the developments are for offices or residential.

VicRoads' submission

VicRoads' submission stated that VicRoads requires the IPO2 and DPO14 to make adequate provision for traffic assessments and necessary mitigating works to its satisfaction at the planning permit stage. VicRoads further seeks that at the planning permit stage it may request a Safety System Audit and Road Safety Audit be conducted to identify potential risks associated with Trenerry Crescent and stipulate permit conditions based on the findings from the audits and traffic impact assessments.

At the hearing Mr Rasulo was asked what is meant by the 'necessary mitigating works'. He stated it depends on the assessment at the time, with a focus on safety.

VicRoads' submission acknowledged the consistent message from all the traffic experts that it would not be equitable to request the proponent to fund installation of new traffic signals. Mr Rasulo stated at the hearing that VicRoads relinquishes the requirement that the proponents pay for works to be carried out.

VicRoads' submission concluded that it is satisfied that traffic signals at the intersection are required now under current operating conditions. It also acknowledged that the traffic pattern in the immediate road network precinct may change in the very near future due to the Hoddle Street Streamline Project, the details of which were not available to the hearing.

The Panel asked Mr Rasulo if he would support the proposals from GTA Consultants other than the traffic signal option. Mr Rasulo stated he would support those traffic measures because they would deliver improvements in safety for cyclists and improved flow of traffic.

The Panel asked Mr Rasulo who would be responsible for carrying out works to improve the intersection. Mr Rasulo stated that the intersection does not qualify as a black spot yet; there is scope for this to occur in the future but there is no guarantee of funding.

Council and proponent submissions

The Panel invited a discussion among the parties on common ground on the traffic issues.

Mr Gobbo for the C218 Proponent stated that the traffic experts agree that some measures are needed at the intersection now. He suggested that Council could use a section 173 agreement to achieve proportional developer contributions to traffic improvements but it would be better dealt with outside the terms of the Amendment.

He stated that VicRoads has not made a case for traffic signals and there is no proper basis for justifying that the proponents make a contribution to the cost of traffic signals. He stated that the C218 Proponent would prefer that the clause in IPO2 requiring a traffic impact assessment as part of the application requirements delete reference to mitigation measures or financial contributions to the satisfaction of VicRoads.

Council's representative, Mr Tobin stated that the Panel only needs to decide whether the proponents are responsible for traffic impacts and should not come to a view about whether Council or VicRoads should be required to undertake any works.

Council proposed to modify the wording for the Application Requirements in the Amendments so that a traffic impact assessment and a decision about public realm improvements could fall out of ordinary permit application process.

Council's closing submission for Amendment C218 stated that Council seeks to retain the requirement in IPO2 for the proponent to provide a traffic impact assessment as part of the permit application. It stated that the assessment may indicate limited local works, and the operation of Trenerry Crescent may change with VicRoads' broader traffic changes.

Council's closing submission for Amendment C219 stated that the Amendment should include words that call for a traffic assessment and appropriate traffic mitigation measures as part of the permit application requirements.

3.2.3 Discussion

The issue for the Panel is whether the amendments should require the proponents to prepare a traffic impact assessment and contribute to the cost of traffic mitigation works.

The exhibited version of the Amendments did not require the proponents to provide a traffic impact assessment as part of the permit application. Council introduced the requirement as part of the post exhibition changes in response to a submission from VicRoads and a number of local residents.

The three traffic experts agreed that the traffic volume and safety issues at the Trenerry Crescent/Johnston Street intersection during peak periods requires action now. The problems are a mixture of volume because of through traffic which causes delays during the peak periods, and safety issues because of the high volume of cyclists and pedestrians. The experts acknowledged that there had been five serious accidents in the past five years, which meets one of the thresholds of VicRoads for installing traffic signals. The experts held different views on whether the level and nature of the accidents makes the intersection inherently unsafe.

All three traffic experts agreed that the traffic impact of the developments on the Amendment sites would be negligible. Each of the experts pointed to their evidence to disprove submissions that the developments will have a significant impact on traffic problems.

VicRoads acknowledged that in light of the traffic evidence it would not be equitable to require the proponents to fund installation of new traffic signals. It withdrew its requirement that the Amendment provide for the proponents to pay for traffic mitigation works.

The traffic experts put forward a range of options to address the traffic problems on Trenerry Crescent and at the intersection with Johnston Street. They did not agree that traffic signals are the most appropriate treatment given the nature of the traffic problems. The traffic experts supported alternative traffic management treatments in Trenerry Crescent such as restricting right turning traffic and removing car parking during peak times.

Although VicRoads was satisfied that traffic signals at the intersection are required under current operating conditions it conceded that it would not be installing traffic signals any time soon. It also concluded that the broader works it is undertaking, particularly the Hoddle Street Streamline Project, may reduce through traffic on Trenerry Crescent.

In light of the traffic evidence it is difficult to justify VicRoads' initial position. There is no expert traffic evidence to support a provision in the Amendments that the proponents provide traffic assessments and consider mitigating works and that VicRoads have the position to declare its satisfaction with the traffic impact assessment. Nor is there any evidence to support a requirement that at the planning permit stage VicRoads may request a traffic safety audit and stipulate planning permit conditions based on the findings.

No less than five of Victoria's leading traffic experts have been engaged as part of this Amendment so far. The three traffic experts who appeared before the Panel submitted and VicRoads fairly agreed that the impact of the developments on traffic would be marginal. They all agreed that it would therefore not be equitable to require the proponents to contribute to solutions for what is an existing problem. The Panel endorses VicRoads' decision to relinquish its requirement for a contribution to any mitigating works to solve a problem that exists for other reasons.

The Panel does not need to address the question of who should pay for any traffic mitigation measures in Trenerry Crescent and at the intersection with Johnston Street. That is a matter for Council and VicRoads. What is clear is that the proponents should not be held responsible.

3.2.4 Conclusion

There is an existing traffic problem on Trenerry Crescent and at the intersection with Johnston Street during the peak hour. That is a matter for VicRoads and Council to address. The evidence of the traffic experts indicates that traffic signals are not necessarily the solution.

The evidence of the traffic experts and VicRoads was clear that the development of the subject sites would have marginal impact on traffic. There is therefore no justification for the amendments to require the proponents to provide traffic impact assessments at planning permit stage or to potentially require them to conduct a road safety audit for the purpose of looking at and mitigating road and traffic conditions that are pre-existing. A traffic impact assessment report may be required to support a reduction in car parking provision or other reasons but that is a different matter that may not involve VicRoads.

The panel concludes that a traffic impact assessment is justified to address the safe entry and exit of vehicles from the developments and how these minimise conflicts with any pedestrian and cycle links.

The Panel relies on the traffic experts in their assessment of traffic situations likely to arise from the development of the sites in its conclusion that the amendments should proceed and submissions calling for rejection of the amendments for traffic reasons are misplaced.

3.2.5 Recommendation

The Panel makes the following recommendation:

- 3. Retain the provision in Amendments C218 and C219 requiring the proponent to provide a traffic and car parking impact assessment but delete reference to it being to the satisfaction of VicRoads and the requirement for proponents to contribute to mitigation works. The Panel's preferred version of the relevant provisions are set out in Appendices C and E.**

Section 2 – Issues specific to each Amendment

4 Issues specific to Amendment C218

4.1 Heritage

4.1.1 The heritage and urban issues

The existing buildings at 18-26 Trenerry Crescent are comprised of development from 1911 and 1924 to a later addition in 1984.

The site is graded as *Individually Significant* within precinct overlay HO337 and there are general references within the Statement of Significance to the former industrial buildings that were developed from the early 1900s, highlighting the more prominent buildings such as 112-124 Trenerry Crescent and the “Byfas” building at 8 Trenerry Crescent.

The current Statement of Significance for HO337 only refers to former industrial buildings (generally) and some of the heritage and architectural features that contribute to the streetscape.

Council would consider current and future planning permit applications against the provisions of the Heritage Overlay and heritage policy in Clause 22.02 (Design Guidelines for Sites Subject to the Heritage Overlay) of the Yarra Planning Scheme. This would not change with proposed Amendment C218.

The exhibited Incorporated Plan, as it relates to heritage issues, identifies the heritage elements that should be retained on the site (at a minimum), subject to a more detailed design proposal and a Conservation Management Plan (CMP) or detailed heritage assessment and design response. These are then subject to a statutory planning assessment, including the consideration of heritage issues, as part of the planning permit process.

Submissions 6, 8, and 14 (Collingwood Historical Society, Collingwood and Abbotsford Residents Association, and Yarra Riverkeepers Association) highlight what they submit is the lack of detail in the amendments on the design response to heritage buildings. The submitters state that all of the elements from the different development periods (1911, 1924 and 1984) are ‘contributory’ to the place, and assert that the IPO is insufficient protection for the heritage elements on the site.

Council commissioned a heritage citation for the site from consultants GJM in June 2016 which has been used to inform changes to the amendment in response to submissions on heritage issues. GJM prepared a citation for 18-62 Trenerry Crescent which identifies the 1984 additions, designed by Darryl Jackson AO, as contributing elements to the cultural and historic significance of the place.

The citation for the property needs to be referenced at clause 22.02 to be included in the planning scheme. Though this was not proposed as part of the exhibition material, legal advice obtained by Council supports this inclusion through the current amendment process. This inclusion was not opposed by any party.

Council endorsed changes to the IPO Schedule and Incorporated Plan in July 2017 that are largely informed by recommendations from GJM. The changes further reinforce the requirements of both the Heritage Overlay and the design response to the heritage fabric on

the site. The proposed IPO Schedule would require a detailed heritage assessment as part of any future planning permit application, in addition to the current requirements of the Heritage Overlay and Clause 22.02. A heritage report would form part of any planning permit application.

Council also proposed to:

- increase the preferred minimum setback from the heritage façades to be retained from 3 metres to 6 metres, and
- require the connecting architectural element between the 1911 and 1924 buildings to be retained so that future development will sit well behind the three-dimensional architectural form of the existing heritage buildings when viewed from Trenerry Crescent and Turner Street.

4.1.2 Evidence and submissions

Mr Jim Gard'ner of GJM Heritage provided expert evidence for Council on heritage issues. His evidence stated:

- The 1911 building and the 1984 additions are of high integrity and are in good condition. Having undergone later additions, the 1920s structures are of lower integrity.
- The 1984 alterations and additions contribute to the significance of the place.
- 18-62 Trenerry Crescent is correctly identified in the Incorporated Document *City of Yarra Review of Heritage Overlay Areas 2007 Appendix 8* (revised May 2017) (Appendix 8) as being of cultural heritage significance to the City of Yarra and meeting the threshold of 'Individually Significant' as defined by Clause 22.02-3 – Levels of Significance in the Yarra Planning Scheme:
- Individually significant: The place is a heritage place in its own right. Within a Heritage Overlay applying to an area each individually significant place is also Contributory.
- The complex – including the 1984 additions – is of local significance to the City of Yarra and warrants its grading of 'Individually Significant' within the Victoria Park Precinct.

In his evidence, Mr Gard'ner was critical of what he said was no consideration *to retaining the three-dimensional form of the existing early twentieth century buildings beyond an indication of the retention of some return walls on Turner Street, and the Incorporated Plan assumes the complete demolition of the 1984 additions* and provided evidence on the extent of buildings on the site which he submitted should be retained.

Mr Gard'ner was also critical that no fabric is proposed to be retained beyond the 1911 and c.1920s facades facing Trenerry Crescent and Turner Street respectively which are to be retained only subject to detailed heritage and structural advice. He called for sufficient building to be retained to avoid façadism.

Mr Gard'ner submitted the minimum extent of building *necessary to retain key public realm views and the legibility of three-dimensional form of the former factory*:

- the Trenerry Street façade and an approximately 6 metre return to the northwest (one structural bay)
- the Turner Street facades including the 1984 glazed atrium link structure
- the Yarra River façade of the 1920s building including the 1984 projecting window elements

- the roof form of the 1911 two storey building including the lantern element to a depth of 6 metres
- the glazed roof form of the 1984 link building to a depth of 6 metres from the site boundary
- the roof form of the 1920s building facing Turner Street and the Yarra River, also to a depth of 6 metres and that the roof form of the pitched roof buildings and the 1984 glazed link building should be retained.

He also stated that an 8-10 metre separation is required between the north-western elevation of the 1911 building on Trenerry Crescent and new built form to the north on the site.

Mr Gard'ner conceded that the saw tooth roof be allowed to be demolished in its entirety but that the pitched roofs be retained to a depth of 6 metres.

The minimum extent of heritage fabric he sought to retain is shown on this extract from figure 23 in Mr Gard'ner's witness statement.



Figure 3 Mr Gard'ner's minimum extent of heritage fabric to be retained

He argued it was essential that the heritage fabric and interfaces are properly documented at Incorporated Plan stage to assist the preparation of appropriate management plans.

He recommended numerous changes be made to the Incorporated Plan Overlay to achieve the outcomes he sought.

Mr Bryce Raworth of Bryce Raworth and Associates provided heritage advice on behalf of the C218 Proponent. He asserts that the level of significance, particularly of the Daryl Jackson designed additions, is not as significant as other (more original) elements on the site. He stated that the 1984 Darryl Jackson additions are (simply) an early example of the adaptive design and re-use of a former industrial/heritage building.

Mr Raworth referred to a decision by Heritage Victoria in 2007 to not list the building on the Victorian Heritage Register for reasons including that the *'early twentieth century factory buildings were considered to be typical, but not architecturally outstanding for their era.'*

Mr Peter Lovell of Lovell Chen gave evidence for the C218 Proponent. He stated his primary concern was the introduction of heritage requirements in the IPO which he said was adequately addressed in the heritage policy in the planning scheme.

Mr Lovell said the subject building is individually significant as stated in the planning scheme but had not been elevated until 2007 when Daryl Jackson's design works were given status on a mistaken premise.

He said:

- the building is the only building in the area recognised as significant
- the Statement of Significance in the HO337 is a good one; it addresses the precinct properly
- the 1911 building is not individually significant
- the 1920s building is not a heritage building because of the extent of subsequent modifications and the 1920s wall bears no resemblance to original
- the 1984 additions are not a good representation of Daryl Jackson's work.

Mr Lovell noted that a heritage impact statement is required for all buildings in the municipality as a result of the Heritage Overlay so anything additional such as proposed in the IPO is unnecessary. He said a Conservation Management Plan is excessive for this site.

Mr Lovell did not support the proposed decision guidelines because they are repetitive of other requirements.

Mr Lovell's evidence supported demolition of the buildings on site but committed to the retention of all the façade on the 1911 building with so much of the return on Trenerry Crescent and Turner Street as necessary to support the retained wall.

4.1.3 Discussion

Each of the heritage witnesses gave evidence that was thorough in its analysis of the issues and considered in the conclusions. The Panel was presented with some conflicting positions all of which arise from a detailed analysis of the issues. The Panel appreciates the manner in which the witnesses presented their opinions which are genuinely held and logically based.

Council summed up the position of the Panel when he described the task to be about how to establish controls to guide the consideration of future development proposals and not being about whether the building has heritage value.

Clause 2.0 of IPO2 as exhibited stated requirements for permit applications that included a requirement for a heritage impact statement that assesses the impact of the proposed development on the heritage values of the heritage place as well as other information to help consideration of the heritage impacts of a proposed development.

The Incorporated Plan as exhibited contained development principles to be addressed to achieve heritage outcomes.

The Panel was presented with submissions to change the format and content of the Incorporated Plan especially to delete provisions said to be contained elsewhere in the planning scheme.

The issue for the Panel is to consider how the planning controls should be shaped to achieve the best heritage outcomes when a permit application is made.

Included here are matters about the controls in IPO2, the requirements of the Incorporated Framework Plan, the contents of an Incorporated Plan prepared on the basis of the controls plus a comprehensive heritage analysis and structural engineering advice which will determine the extent of building likely to be retained.

4.2 Discretionary heights

4.2.1 Street wall height to Trenerry Crescent

In its submission during exhibition of Amendment C218, the C218 Proponent sought changes to the IPO Schedule that *allows a degree of discretion in height and setbacks; provides recognition of design excellence and recognises site specific characteristics*. Its submission included specific changes to the Amendment documentation.

The C218 Proponent specifically identified the street wall height of new built form on Trenerry Crescent in its submission. The C218 Proponent sought that this be changed from a mandatory to discretionary height. The exhibited Incorporated Plan in Amendment C218 depicts this as *maximum height 4 storeys (15m)*.

Council considers the mandatory street wall height proposed in Amendment C218 to be justified having regard to:

- the JSLAP and the urban design analysis that underpins it
- the heritage significance of 18-62 Trenerry Crescent; and
- the proposed application of the IPO.

Mr Gard'ner's position on the controls proposed for this site assumes a four storey street wall height, which Mr Gard'ner considers *appropriate in the context of the broader precinct*.³⁶

4.2.2 Height of new building

The C218 Proponent sought to change the wording of IPO2 to state a discretionary height control for the new building. Section 3 of this report deals with the substantive issues on the matter. Section 3.1.4 states the Panel conclusion that the Incorporated Plan to the IPO is to include a note that the revised DDO1 applies and expresses a preferred maximum 25 metre building height (not including the street wall height).

4.3 The heritage citation

There was common ground between the Council and the C218 Proponent for a citation for the site to be included in the LPPF. Whereas the Council supported the GJM version, the proponent urged the Panel to accept the draft statement of significance presented by Mr

³⁶ See page 25 of Mr Gard'ner's expert witness report.

Lovell that supported the descriptions of the buildings as stated by GJM but downplayed the significance attached by Mr Gard'ner.

The Panel notes that Council largely supported Mr Lovell's draft with the exception that he preferred Mr Gard'ner's grading. The Panel finds that Mr Lovell's draft can be supported. It states the heritage position of the building(s), ascribes heritage significance and sets a basis on which to assess future permit applications. The Panel's preferred form of the statement is at Appendix D.

The Panel notes the difference of opinion between the heritage experts for the C218 Proponent where Mr Raworth differed from Mr Lovell about the way the heritage values of the buildings should be expressed in a statement of significance. The Panel adopts Mr Lovell's draft.

4.4 Conclusions

The Panel concludes:

- Amendment C218 should not include a discretionary maximum building height of 26 metres and adopts the position that IPO2 contain discretionary maximum height controls in the event that DDO1 expires or is amended to remove mandatory building height controls.
- The IPO2 and the Incorporated Framework Plan should be amended to allow a future permit applicant the opportunity to justify a proposal that:
 - retains heritage features including parts of the heritage fabric of the buildings with the façade of the 1911 buildings and part of the Turner Street fabric
 - has a street wall height on the Trenerry Crescent frontage as exhibited in the Incorporated Plan in Amendment C218 that depicts '*maximum height 4 storeys (15m)*'
 - has a preferred maximum building height of 25 metres consistent with DDO1.
- The citation for 18-62 Trenerry Crescent should be the version presented by the C218 Proponent with the Lovell amendments.

4.5 Recommendations

The Panel makes the following recommendations:

4. **In Amendment C218**
 - a) **Adopt the form of Incorporated Plan Overlay Schedule 2 as contained at Appendix C to clarify building height controls**
 - b) **Adopt the statement of significance for 18-62 Trenerry Crescent Abbotsford as presented by Mr Lovell for the C218 Proponent and included at Appendix D.**

4.6 Form and content of Amendment C218 and IPO

4.6.1 The issue

In chapter 2 the Panel reported its position on issues about the Form and Content of each Amendment and the repetition of provisions in the associated documents. This section deals with the form and content of the controls proposed in Amendment C218.

As reported in chapter 2.4, the authorisation for Amendment C218 required the drafting of IPO2 to be in accordance with the direction on the Form and Content of Planning Schemes. Mr Tobin for Council advised that the form of the Amendment and the IPO had been varied and now complied with the template. It is sufficient for the Panel that the planning authority will recheck the form of the amendment papers taking account of the Panel recommendations prior to adoption of the Amendment.

4.6.2 Evidence and submissions

Council told the Panel that Amendment C218 with the rezoning of the land to C1Z and associated documentation including the IPO had been prepared at the request of the proponents.

The C218 Proponent acknowledged the zone and the overlay controls proposed under Amendment C218 but took issue with the nature and effect of the controls in the IPO that would inhibit how it designs a redevelopment proposal. The C218 Proponent advocated changes to particular controls including the mandating of heights and setbacks to apply to the site whether through DDO1 or IPO2, change to the requirement to retain parts of the buildings which it contests have heritage values worth preserving, changes to the heritage citation covering buildings on site that is proposed to be included in the planning scheme, change to allow the datum point for measuring height to be on the Trenerry Crescent frontage and changes to the requirements for matters to be included in an Incorporated Plan.

The C218 Proponent relied on the evidence of its expert witnesses Messrs McGurn, Blades, Raworth and Lovell to support its submission for changes to the IPO so as to *allow the best planning outcome in the long term and prevent the need for a further planning scheme amendment*.³⁷

4.6.3 Discussion

In chapter 3.1.3, the Panel said it would approach the issue of repetition of provisions across the controls by assessing the purpose of the repetition and the function of that repeated provision. None of that is to disregard the strength of the submissions. The Panel approach is one of balance. If the repetition serves a useful purpose and the function is of little more effect than to draw attention to a provision, the Panel is likely to allow the repeated provision.

The evidence from the witnesses about desired changes to the form of Amendment C218 was put on two main grounds: first, making the documents compliant with government directions. Second, to create a scenario where the proponent can design a development concept with flexibility arising from the discretionary application of controls in DDO1, as far as they can be discretionary, and with IPO2, and its indicative framework plan, as the guiding controls.

The Panel accepts the genuine approach of the proponent. However, the Panel also considers one of the benefits of the controls as exhibited as allowing the later drafting of a concept and its consideration without the usual level of advertising or third party

³⁷ Document 29 para 35.

participation. One of the reasons given by the planning authority for its advocacy of the nature of the controls was that there had been substantial notification and awareness of the type of development that may result from the controls. The Panel is not prepared to divert far from the form of the controls as exhibited and which third parties are entitled to expect will lead to an outcome that is substantially similar to that anticipated under the exhibited form of the controls.

4.6.4 Conclusions

The C218 Proponent sought changes to particular controls including the mandating of heights and setbacks to apply to the site whether through DDO1 or IPO2. The Panel accepts some of the changes. On the basis of submissions, the Panel has drafted its preferred version of IPO2, contained in Appendix C.

The C218 Proponent sought changes to the requirement to retain parts of the buildings. The Panel does not prescribe the extent of building to be retained but amends IPO2 to allow retention issues to be resolved as part of the planning permit stage.

The C218 Proponent sought changes to the heritage citation covering buildings on site that is proposed to be included in the planning scheme. The Panel accepts Mr Lovell's evidence that the citation as drafted by GJM can be varied without removing the requirement for a heritage report and substantiation of heritage issues at the appropriate time.

The C218 Proponent sought change to allow the datum point for measuring height to be on the Trenerry Crescent frontage. The Panel does not accept this proposition for reasons discussed in chapter 3.1.

The C218 Proponent sought changes to the requirements for matters to be included in an Incorporated Plan. The Panel accepts some of the changes. On the basis of submissions, the Panel has drafted its preferred version of the Incorporated Plan; the Panel version of the Indicative Framework Plan is contained as part of the Incorporated Plan in Appendix C.

The changes of note are to some of the terms applied in the post-exhibition form of the IPO2 and the Incorporated Plan.

In the IPO2:

- The Panel applies the term heritage impact statement instead of the descriptions Comprehensive Heritage Analysis, comprehensive impact assessment, heritage conservation and management plan and the like. The changes are made in proposed clause 1.0 with references in the Requirements for permit applications and in proposed clause 2.0 Decision Guidelines. The change adopts the term used by the C218 Proponent.
- The Panel reduces the breadth of what was to be the focus of a Traffic Impact Assessment Report in proposed clause 1.0. The Panel preferred form of the requirement focusses on addressing car parking and access to Trenerry Crescent for safety reasons. The Panel accepts that the requirement to consider traffic impacts on the intersection of Trenerry Crescent and Johnston Street and the prospect of contributions to any mitigation works can be deleted.
- The Panel removes clauses that duplicate the terms of DDO1 and clarifies that DDO1 applies. The Panel retains and enhances clauses with more specific provisions than

DDO1 to protect the values of the Yarra River corridor adjacent to the subject sites in the Requirements and Decision Guidelines.

For the Incorporated Plan, in addition to improvements to simplify the Plan including the removal of the notes, the Panel:

- Removes requirements that duplicate the terms of DDO1 in the Development Principles and Landscape Principles in the Objectives
- Clarifies provisions that add more detailed requirements than DDO1 within the Objectives
- Amends the attached plan to specify that DDO1 applies to the subject site
- Reorganises the Objectives that address heritage issues under a new heading for 'heritage principles'
- Applies the description "preferred maximum building height" to the building area outside the DDO1 area
- Sets the street wall height on Trenerry Crescent at "15 metres preferred height"
- Removes the requirement for spacing between the retained façade on TC and new building along the street frontage and the identification of the area as the preferred vehicle entry point off Trenerry Crescent
- Reduces the depth of the minimum setback above the heritage façade to a preferred minimum of 2 metres above the heritage facade
- Identifies preferred vehicle access points on Trenerry Crescent and Turner Street
- Replaces the word façade with fabric to identify "other heritage fabric" to be considered for retention.

4.6.5 Recommendation

The Panel makes the following recommendation:

- 5. Adopt the form of Incorporated Plan Overlay Schedule 2 as contained at Appendix C to improve form and content of the overlay and the Indicative Framework Plan.**

5 Issues specific to Amendment C219

5.1 Heritage and urban design

5.1.1 The heritage issues

The former Austral Silk and Cotton Mills (Austral) building at 112-124 Trenerry Crescent is graded as *Individually Significant* and is part of HO337. Current and future planning permit applications would be considered against the provisions of the HO and Clause 22.02.

Advice to Council by GJM includes a new citation for the site. Although not formally part of the exhibited amendment, the citation for the property would need to be referenced at Clause 22.02 to be included in the planning scheme. Legal advice to Council supports this occurring through the current amendment process. This inclusion was not opposed by any party.

Submissions 6, 8, 13 and 14 (Collingwood Historical Society, Collingwood and Abbotsford Residents Association, a local resident and Yarra Riverkeepers Association) highlight concerns about the lack of detail in Amendment C219 in addressing the design response to the former Austral building.

In response to submissions Council sought advice from GJM. The subsequent advice highlighted the importance of this prominent heritage building with all visible façades important for the reading of the building and recommended changes to the DPO Schedule to reinforce the heritage significance of the building and to clarify the heritage requirements when submitting a Development Plan for approval and at the planning permit stage. Specifically, the report identified that the Schedule to the DPO and future Development Plan should ensure that:

- key views to the prominent heritage façades be retained
- there should be separation from new buildings
- upper level setbacks, and
- protection of views of the eastern building façade by limiting the height of any new buildings to the east.

Council proposed a number of changes to the DPO Schedule to reflect GJM's advice including:

- changes to the Vision section to ensure development maintains views to the heritage building from Trenerry Crescent
- changing the requirements for the Development Plan to ensure that development responds to a future Conservation Management Plan or similar analysis
- modifying the Indicative Framework Plan within the Schedule to the DPO to reinforce the heritage significance of the building and key view lines to the prominent façades
- altering the decision guidelines.

Council proposed to modify the Indicative Framework Plan and design guidelines within DPO14 to reinforce the heritage significance of the building and key view lines to the prominent façades.

Council commissioned a heritage citation from GJM as part of the Amendment process and seeks to have the citation listed as a reference document at Clause 22.02-8. Council stated that referring to the heritage citations within clause 22.02-8 would be consistent with the existing treatment and structure of heritage documents within the Scheme.

Mr Townsend for the C219 Proponent made substantive submissions on heritage matters through presentations and cross examination of Mr Gard'ner. Those submissions took issue with some aspects of the heritage information and controls particularly affecting the ability to develop the northern part of the site, with the protection of view lines to the Austral building from off-site vantage points including the requirement for a 20 metre setback distance for new building on the northern land as well as the requirement for a public link through the site from Trenerry Crescent to the River corridor.

The proposed statement of significance presented by Mr Gard'ner was accepted by the C219 Proponent but the proponent sought changes to the heritage provisions in DPO14.

5.1.2 Evidence and submissions

Mr Gard'ner provided expert evidence to substantiate the level of heritage control in DPO14 and the Indicative Framework Plan. Mr Gard'ner distinguished the AEU building on the northern part of the site at 126-142 Trenerry Crescent which he stated *was constructed in the 1980s in a Post-modern style and it is my opinion that it does not have any heritage significance in its own right nor as part of the Victoria Park Precinct* from the Austral site at 112-124 Trenerry Crescent which he said *was of local historical and aesthetic significance to the City of Yarra and which was of cultural heritage significance to the City of Yarra and meets the threshold of 'Individually Significant' as defined by Clause 22.02-3 – Levels of Significance in the Yarra Planning Scheme.*

Mr Bruce Trethowan prepared evidence on heritage matters for the C219 which was submitted to the hearing. Mr Trethowan was not called but his evidence remains for consideration.

Mr Trethowan supported the significance of the Austral building. His evidence was:

Given the greater understanding of the history and development of the site and its importance within the area, all remaining industrial structures on the subject site dating from the interwar period should be retained. These structures comprise:

- *the 1927 Building*
- *the addition to the south of the 1927 Building*
- *the substation building*
- *the remnant walls*

He stated that *These structures should be scheduled (under Schedule 14) and their location identified on the IDF.*³⁸

Mr Trethowan's submission went on to state that any new building extension to the Austral building should be limited to one storey in nominated locations, should have a street wall

³⁸ Document 11 paras 51 and 52.

height of 8 metres to Trenerry Crescent and an appropriate separation of the 1927 Austral building from new construction.³⁹

5.2 Discussion

The C219 Proponent's position did not focus on heritage issues per se save for arguing that the shared link was not supported on heritage grounds. Instead, the C219 Proponent argued that heritage issues arising from the exhibited form of the amendment should be left to play out at the appropriate stage as there is no current redevelopment proposal.

There are implications for the heritage buildings on the AEU land as a result of evidence from Mr Sheppard, for example the issue of the pedestrian and cycling link, but none that effect the form of the controls.

5.2.1 Conclusions

The Panel concludes there are no heritage issues to warrant changes to the Amendment.

The Panel adopts the heritage citation as proposed by Mr Gard'ner without amendment.

5.2.2 Recommendations

The Panel makes the following recommendations:

- 6. Adopt the heritage citation for the former Austral Silk and Cotton Mills warehouse and factory complex as prepared by GJM Heritage for inclusion as a reference document at Clause 22.02-8.**

5.3 Form and content of Amendment C219 and DPO

5.3.1 The issue

The purpose of this part of the report is to address matters unique to Amendment C219 and DPO14. The Panel does not repeat what has been said previously in the report about compliance with relevant Ministerial Directions. Here the Panel addresses the submissions from the C219 Proponent about the drafting of the controls and the repetition of requirements across documents as the main issues. The Panel also notes that it is sufficient that the planning authority will recheck the form of the amendment papers taking account of the Panel recommendations prior to adoption of the Amendment.

5.3.2 Evidence and submissions

Mr Townsend for the C219 Proponent called for the deletion of what he described as additional controls in the Indicative Framework Plan in DPO14 dealing with the height of future development in view of the recent introduction of DDO1.⁴⁰ Mr Townsend submitted there is little strategic justification for the layers of controls requested in proposed DPO14.⁴¹

Mr Townsend relies on the evidence of Mr Glossop and Mr Sheppard. In his evidence Mr Glossop made numerous recommendations for variation of the proposed planning controls to achieve compliance with Ministerial Directions and Planning Practice Notes. If all the

³⁹ Document 11 para 54.

⁴⁰ Document 31 para 8.

⁴¹ Document 31 para 10.

changes were made, the documentation would be substantially reduced in size. The evidence of Mr Sheppard was that editing the documents would lead to improvements for clarity and better understanding.

5.3.3 Discussion

The Panel has previously outlined the approach it adopts in measuring changes sought by the proponents. In considering the many submissions for changes to the C219 documents, the Panel seeks to achieve a balance between strict compliance with Ministerial Directions and Practice Notes and practical drafting to state the outcome to be achieved under the controls of the DPO, the future Development Plan and the Indicative Framework Plan.

There is no contest that the Austral building is of heritage significance and an important example of the industrial past. Neither is there any contest that the significance of the building must be protected and appropriate controls applied for the purpose. Striking the right balance to reduce the layers of control the C219 Proponent criticises viz a vis establishing controls that allow future development, especially building on the northern part of the site at 126-142 Trenerry Crescent that is not covered by the heritage overlay and has less constraints, that respects and protects the heritage building and river corridor issues is the task for the Panel.

The C219 Proponent and witnesses sought substantial change to DPO14 and the Indicative Framework Plan. Council continued to advocate for the post exhibition version of DPO14 as amended by council at its July meeting with some tidying amendments and minor change to the Indicative Framework Plan.

The panel believes the differences between the two positions are about detail and not effect and agrees to changes that address issues raised by both parties.

5.3.4 Conclusions

The changes to the DPO14 are mostly 'tidy ups' as Council described them, and to improve the Indicative Framework Plan to illustrate matters to be addressed at the concept design stage and to be considered at application stage.

The Panel preferred version of DPO14 is in Appendix E.

5.3.5 Recommendation

The Panel makes the following recommendations:

- 7. Adopt the form of Development Plan Overlay Schedule 14 as contained at Appendix E.**

5.4 Requirement for public shared pathway

5.4.1 The issue

The C219 Proponent opposed Council's requirement that it provide a 20 metre wide publicly accessible shared pedestrian and cycling path through the two properties at 112-124 and 126-142 Trenerry Crescent on the basis that it is onerous and unnecessary.

5.4.2 Evidence and submissions

Council submitted that the requirement is justified on the basis that a shared pedestrian and cycling path connection was identified as an opportunity in Appendix C of the JSLAP and the connection would formalise a route already used as a short-cut. Council stated that the pathway, also called a link in the documents, would help to provide favourable community benefit from the Amendment that otherwise is limited beyond providing more housing.

Council stated that the pathway is located in an area that cannot be built on because of the building separation requirements applied for heritage reasons and because it is the only location for vehicles to access the building. In addition, he submitted that the setback requirements applying to the Yarra River mean the proponent is not able to have buildings in much of the area. Council acknowledged that the proponent could use the area as private outdoor space and that it could be a constraint to the development but regarded the requirement as not onerous.

For the C219 Proponent, Mr Trethowan opposed what he described as *an open bicycle connection between the western arm of Trenerry Crescent and the Dight's Mill carpark and bicycle track* saying it would not be a positive initiative from a heritage perspective and is unacceptable⁴². Instead, he favoured on-street improvements for vehicles, bicycles and pedestrians at and within the north-western sector of 126-142 Trenerry Crescent.

The C219 Proponent submitted that the proper time for Council to negotiate the option of a publicly accessible shared pathway with the land owner is at the planning permit stage.

Mr Glossop for the C219 Proponent characterised the Council's proposal as compulsory acquisition of land but with no opportunity for compensation for the land owner.

5.4.3 Discussion

Appendix C of JSLAP states it *provides a more detailed contextual analysis of Trenerry Crescent than is outlined in JSLAP, and is intended to identify opportunities that exist in terms of public access to the river corridor and the remaining development opportunities for Trenerry Crescent that should carefully respond to the natural characteristics of the river corridor.*⁴³

It identifies three locations along Trenerry Crescent where views to the Yarra River corridor are possible and gives this as a reason to preserve the existing view lines at the AEU site and for the goal of formalising a pedestrian and cycling link to the river corridor.⁴⁴

The document states that the space between the two buildings at 112-124 and 126-142 Trenerry Crescent *should be maintained to ensure that view lines to the river corridor are also maintained* and that *the opportunity exists to establish a more formalised pedestrian link between the two northern-most buildings on Trenerry Crescent through to the river and Capital City Trail.*⁴⁵

⁴² Document 11 para 69.

⁴³ Document 24 and document 16 page 3.

⁴⁴ Section 3.2 Appendix C JSLAP.

⁴⁵ Document 16 section 3.2 page 17.

Certain design principles are proposed for new development at 126-142 Trenerry Crescent with the *consideration of existing car parking and access arrangement to allow sufficient space for car access whilst enabling a shared path that runs in line with the property boundaries.*⁴⁶

The recommendations in Appendix C⁴⁷ are (to):

Investigate opportunities to enhance the public realm along Turner Street and to improve existing physical links to the Capital City Trail

Maintain/preserve visual connections to the river corridor (spaces between buildings)

Investigate opportunities to create new pedestrian link to connects Trenerry Crescent to the Capital City Trail as part of an open space contribution.

The Panel notes the gap between the two buildings at 112-124 and 126-142 Trenerry Crescent is one of the few locations along the street where views to the river corridor are possible. The Panel also notes the use of the words ‘opportunity’ and ‘potential’ to describe the goal of maintaining and formalising visual and physical links including the current informal public use of the gap between buildings by pedestrians that occurred during the accompanied inspection of the area.

The rationale for maintaining the separation of any new buildings as part of redevelopment of the two AEU properties is strong. There are heritage considerations for maintaining views to the Austral building and urban design principles to preserve viewing opportunities to the river corridor.

The issue for the Panel is whether the gap between the buildings should be set aside as a separation distance with a pedestrian and cycling link either with the land in freehold ownership or becoming public land by one means or another.

The Panel was told the distance from the current building line of the Austral building to the lot boundary was 17 metres. That is not the distance between the two buildings which is greater when the further setback of the AEU occupied building from the common boundary is considered. The separation distance is therefore more than the 20 metre wide link that the council advocated. The Panel proceeds on the basis that the link would be wholly within the property at 112-124 Trenerry Crescent but not within number 126-142. This approach differs from the concept of a shared path that runs in line with the property boundaries as imagined in the Development Guidelines for 126-142 Trenerry Crescent in Appendix C to the JSLAP but it is consistent with the approach at the hearing.

Though Council advocated a 20 metre wide link none of the descriptions in JSLAP or Appendix C prescribe a width. In answer to a question from by Mr Townsend for the C219 Proponent, Mr Gard’ner replied that he was not concerned with a separation distance of 20 metres or 22 metres or 18 metres or less, provided the width achieved the same heritage objectives. Mr Sheppard’s evidence was that the 20 metre dimension was *a somewhat*

⁴⁶ Document 16 section 4.6 page 25.

⁴⁷ Document 16 section 5.0 page 26.

arbitrary distance and the northern edge of the separation should *be defined by the boundary, if this is considered sufficient for heritage purposes.*⁴⁸

Mr Sheppard's evidence was that he broadly supported the idea of enhanced access to the river corridor but there is *marginal public benefit in such a link, given that it effectively duplicates the existing path around the northern edge of the subject land and does not align with any particular desire line.* His further issue is that upon arrival at the top of the river embankment, *the slope of the embankment precludes any opportunity to directly access the Main Yarra Trail.*⁴⁹

Mr Sheppard preferred the Indicative Framework Plan concept of improvements at the north-west corner of the property at 126-142 Trenerry Crescent as well as on-street improvements.

Mr Sheppard's recommendation was to change the reference to a 'public shared link opportunity' to an opportunity that should be explored if possible. His recommendation was based on his conclusion that *it is inappropriate to impose a link on development of the subject land. However, it should be encouraged provided it is practical.*⁵⁰

The notion that the idea be explored is consistent with the opportunity noted on figure 11, Development Opportunities and Principles in Appendix C to the JSLAP, which reads *Maintain and formalise through link and visual connection to Capital City Trail (in consultation with property owner).*

As a principle, the Panel prefers a consultative approach especially where there is no specificity to the land to be set aside, there is no development proposal afoot to identify an area of land and no programme to achieve the objective.

That pedestrians use the space between the buildings now as a short cut is insufficient justification to set aside an area for continued use as a public walkway. The landowner can stop that activity by the erection of fencing to prevent access.

On the other hand, the existing visual link between the two buildings will remain because of the separation of any new construction on either of 112-124 or 126-142 Trenerry Crescent. Given the landowner has no plan to develop either property, maintaining the visual link in the short term is moot. Further, the Panel accepts that in the future there will necessarily be a separation of any additions to the Austral building and building on the northern site so a visual link to the river corridor will remain.

Ms Donald's evidence that the travel distance is similar around the property as it is through it and that improvements will make for safer use of the footpath adds to Mr Sheppard's evidence; the Panel accepts the evidence of both experts.

5.4.4 Conclusions

The street wall façade along the length of Trenerry Crescent is a strong physical element and feature of the area. So too is the existing built form that mixes older heritage buildings with

⁴⁸ Document 13 para 32.

⁴⁹ Document 13 para 34.

⁵⁰ Document 13 para 36.

newer contemporary buildings. The formation of buildings and the almost continuous line of building along Trenerry Crescent means the presence of the Yarra River corridor is not obvious from the street. JSLAP, the more detailed Appendix C and the evidence to the Panel all confirm these circumstances to provide the Panel with a context within which to draw its conclusions.

The Panel accepts that the gap between the buildings at 112-124 and 126-142 Trenerry Crescent provides the best of few opportunities to view the river corridor from the street. However, the Panel does not accept the gap should be preserved forever as it is today.

The purpose of Amendment C219 is to establish controls to guide the future development of the AEU land. The landowner will be able to develop the site or sites for whatever form of development a permit allows. By definition, the gap as it is today is likely to change. The principle direction of DDO1 is to set controls to protect the Yarra River environs from adverse impacts from development. The principle direction of DPO14 is to set the controls to guide development concepts shaped in the context of the river controls. The Panel accepts the merit of utilising the gap between buildings on the site(s) to allow view lines to the river corridor but does not support the pedestrian and cycling link on the property at 112-124 Trenerry Crescent as an essential element in achieving a better experience in accessing the river corridor.

The Panel has amended the Indicative Framework Plan to identify a view corridor but has deleted the requirement for the link.

The Panel does not rule out the prospect that Council consulting with the property owner may lead to the JSLAP goal of a pedestrian and cycling link being achieved. The Panel can preserve that opportunity by recommending a suitable form of controls over future development in DPO14 and the Indicative Framework Plan. The Panel has amended the wording on the Indicative Framework Plan to read Potential public link opportunity to be negotiated with the owner.

The Panel endorses the identification of on-street improvements adjacent to the north-west corner of 126-142 Trenerry Crescent as a requirement of the Indicative Framework Plan notwithstanding the works are unspecified. The Panel agrees with Ms Donald that the actual changes would be best determined through a detailed review of the area including how any changes will impact existing parking within number 126-142⁵¹ assuming land within the site is taken for the improvements.

The changes adopt submissions by the council as well as the C219 Proponent including through the witnesses. The changes apply to each of the proposed clauses in DPO14 for consistent use of terms and for clarity. They have the effect of ensuring respect for the heritage building and features of the land; to simplify the Indicative Framework Plan while at the same time providing direction on matters to be considered at relevant stages of the development process, and to ensure DDO1 is applied.

⁵¹ Document 34 section 10.2.

In the DPO14:

- The Panel applies the term heritage impact statement instead of other descriptions such as comprehensive heritage analysis, comprehensive impact assessment, conservation management plan and the like.
- The Panel reduces the breadth of a Traffic Management Report in proposed clause 3.0 to address car parking and access to Trenerry Crescent for safety reasons. The Panel accepts that the requirement to consider traffic impacts on the intersection of Trenerry Crescent and Johnston Street and the prospect of contributions to any mitigation works can be deleted.
- The Panel removes clauses that duplicate or seek to paraphrase the terms of DDO1 and clarifies that DDO1 applies in Requirements. The Panel retains and enhances clauses with more detailed or specific provisions than DDO1 to protect the values of the Yarra River corridor adjacent to the subject sites.
- The Panel removes the requirement for the Development Plan to provide details of known contamination as it duplicates other planning requirements for an environmental audit, which may follow the Development Plan rather than precede it.
- The Panel removes the requirement for the site plan in the Development Plan to show the location and alignment of a publicly accessible pedestrian/pathway link but leaves the option for a link.
- The Panel removes the Decision Guidelines section as it is not consistent with Ministerial Direction on Form and Content. The requirements are already covered in the Conditions and Requirements for Permits and in the Decision Guidelines in DDO1.

For the Indicative Framework Plan, with the aim to improve and simplify the Plan, the Panel:

- Notes DDO1 applies within the site area by adding words to the legend
- Applies the description “preferred 25 metres maximum height” to the building area on the northern part of the site
- Identifies a maximum wall height of 8 metres on the Trenerry Crescent frontage of the northern part of the site
- Amends the requirement for the publicly accessible shared path by amending the note to read Potential public link opportunity to be negotiated with the owner
- Varies the description of the note about maintaining views to the heritage building to read Maintain views to upper levels of heritage façade / development to respect the heritage building
- Includes additional locations as key view to the heritage building from near Maugie Street and at the Eastern Freeway near the Dights Falls car park
- Deletes the landscape setback area
- Deletes reference to a sensitive river interface
- Deletes the requirement to maintain separation between buildings (min 20 metres)
- Deletes the identification of the location for taller buildings
- Deletes the note about the interface with the Eastern Freeway and replaces it with a note to Enhance interface with public realm.

5.4.5 Recommendation

The Panel makes the following recommendations:

- 8. Delete the requirement for the publicly accessible shared path shown on the Indicative Framework Plan and adopt the wording on the Panel preferred form of the Indicative Plan at Appendix E.**

Appendix A Submitters to the Amendments

No.	Submitter
1	Andy Hine
2	Alexander & Chantal Marks
3	Andrew White
4	Alistair Riddell
5	Judith Braniska
6	Collingwood Historical Society
7	Christine Parrott
8	Collingwood and Abbotsford Residents' Association Inc
9	Simon Hoeksma
10	Melbourne Water
11	City of Boroondara
12	Proponent - SJB Planning for C218 and AEU for C219
13	Chapman and Bailey architects for Johnston Street (for C218) and Peter Virgona (for C219)
14	Riverkeepers Association
15	Owners Committee 80-84 Trenerry Crescent
16	VicRoads

Appendix B Document list

No.	Date	Description	Tabled by
1	2 Aug	Part A submission for Yarra City Council	Tessa D'Abbs, Harwood Andrews
2	4 Aug	Expert urban design evidence for Joval PL	Brodie Blades, David Lock Associates
3	4 Aug	Expert witness statement on conservation urban design for Joval PL	Bryce Raworth, Conservation Consultant/Architectural Historian
4	4 Aug	Assessment of the potential traffic engineering impacts for Joval PL	Charmaine Dunstan, Traffix Group, Traffic Engineers and Transport Planners
5	4 Aug	Landscaping considerations for Joval PL	John Patrick Landscape Architects Pty Ltd
6	4 Aug	Heritage evidence for Joval PL	Peter Lovell, Lovell Chen Pty Ltd, Architects and Heritage Consultants
7	4 Aug	Statement of town planning evidence for Joval PL	Stuart McGurn, Urbis Pty Ltd
8	4 Aug	Expert witness report, Traffic impact and transport, for Yarra City Council	Jason Sellars, GTA consultants
9	4 Aug	Expert witness report, Heritage evidence, for Yarra City Council	Jim Gard'ner, GJM consultants
10	7 Aug	Expert witness report, Traffic evidence, for Australian Education Union	Deborah Donald, O'Brien Traffic
11	7 Aug	Expert witness report, Heritage evidence, for Australian Education Union	Bruce Trethowan, Trethowan Architecture
12	7 Aug	Expert witness report, Planning evidence, for Australian Education Union	John Glossop, Director Glossop Town Planning Pty Ltd
13	7 Aug	Expert urban design evidence for Australian Education Union	Mark Sheppard, David Lock Associates
14	7 Aug	Late submission to Panel; Collingwood Historical Society submission to Council meeting 4 July 2017	Collingwood Historical Society Inc
15	9 Aug	Council officers' report for C219 for Council meeting 4 July 2017, Agenda paper 418 (to replace report for C218 erroneously included in original folder)	Yarra City Council
16	9 Aug	Folder of documents including track	Yarra City Council

		changes version of post exhibition modified version of Amendments C218 and C219	
17	9 Aug	Part B submission	City of Yarra
18	10 Aug	Amcor Site, Heidelberg Road, Alphington, Schedule 11 to the Development Plan Overlay, Yarra Planning Scheme	City of Yarra
19	10 Aug	Channel 9 site, Bendigo Street, East Richmond, Schedule 5 to the Development Plan Overlay, Yarra Planning Scheme	City of Yarra
20	10 Aug	Kinnears Precinct, Footscray, Schedule 14 to the Development Plan Overlay, Maribyrnong Planning Scheme	City of Yarra
21	10 Aug	Melbourne Planning Scheme C240 Bourke Hill	City of Yarra
22	10 Aug	VicRoads submission to Planning Panel	Andrew Rasulo, VicRoads
23	11 Aug	Enlarged version of Figure 3, Mr Brodie's urban design expert report	Brodie Blades, Urban Design Expert report for Joval PL
24	11 Aug	Enlarged version of App C of Mr Brodie's urban design expert report showing building heights on Trenerry Cres (from JSLAP)	Brodie Blades, Urban Design Expert report for Joval PL
25	11 Aug	Enlarged version of Figure 10 of Mr Brodie's Urban Design Expert report	Brodie Blades, Urban Design Expert report for Joval PL
26	11 Aug	Enlarged version of Figure 12 of Mr Brodie's Urban Design Expert report	Brodie Blades, Urban Design Expert report for Joval PL
27	15 Aug	Joval PL drafts on heritage provisions in IPO Schedule 2 and Incorporated Plan, Yarra Amendment C218	City of Yarra
28	15 Aug	Email from VicRoads confirming that information on Hoddle St project will not be available during the Panel	City of Yarra
29	16 Aug	Submission on behalf of Joval Pty Ltd	Jeremy Gobbo and Ms Nicola Collingwood for Joval PL
30	16 Aug	Closing submission City of Yarra	Greg Tobin for City of Yarra
31	17 Aug	Opening submission on behalf of Australian Education Union	Matthew Townsend for Australian Education Union
32	17 Aug	Statement by AEU branch secretary	Matthew Townsend for Australian Education Union
33	17 Aug	PowerPoint presentation on urban design	Mark Sheppard, David Locke

		expert evidence	Associates
34	17 Aug	Pedestrians walking speed reference document	Deborah Donald for Australian Education Union
35	18 Aug	Letter sent by email on behalf of C219 Proponent attaching: (a) tracked changes version of C219 Proponent's suggested changes to DPO14 and (b) Ministerial Direction of Form and Content of Planning Schemes dated 9 April 2017 (Gazetted 24 May 2017).	Nick Sissons, Holding Redlich for Australian Education Union
36	18 Aug	Photos of C219 site	John Glossop, expert for Australian Education Union
37	18 Aug	Practice Note of Incorporated Plan and Development Plan Overlays, PPN	John Glossop, expert for Australian Education Union
38	18 Aug	Planning Practice Note 10, Writing schedules	John Glossop, expert for Australian Education Union
39	18 Aug	Ministerial Direction, The Form and Content of Planning Schemes, previous version.	John Glossop, expert for Australian Education Union
40	18 Aug	Submission on behalf of AEU	Matthew Townsend for Australian Education Union
41	18 Aug	Closing submission on behalf of Yarra City Council	Greg Tobin for Yarra City Council
42	18 Aug	PI 34, Transformation of Amendment, VPRS Guide to Planning Panels	Greg Tobin for Yarra City Council
43	18 Aug	Email with attachment showing C218 Proponent's proposed revisions to Incorporated Plan in IPO2	Romy Davidov, Best Hooper lawyers for Joval Pty Ltd
44	25 Aug	AEU version of a revised Indicative Framework Plan for DPO14 as discussed during the AEU evidence and submissions	Nick Sissons, Holding Redlich for Australian Education Union
45	31 Aug	Email clarifying C218 Proponent position on the heritage issues, with attachments showing proposed revisions to IPO2 and the Incorporated Plan	Romy Davidov, Best Hooper lawyers for Joval Pty Ltd

Appendix C Panel preferred version of IPO2

DD/MM/Y
YYY
C218

SCHEDULE 2 TO THE INCORPORATED PLAN OVERLAY

Shown on the planning scheme map as **IPO2**.

18-62 Trenerry Crescent, Abbotsford November 2016

1.0 Requirements for permit applications

DD/MM/Y
YYY
C218

An application to construct a building on the site that includes multiple residential dwellings must allocate a minimum leasable floor area* of 20 % of its net floor area** for office/retail/commercial or other employment generating uses, to the satisfaction of the responsible authority.

***Leasable floor area** - That part of any floor area able to be leased. It does not include public or common tenancy areas, such as malls, verandahs, or public conveniences.

****Net floor area** - The total floor area of all floors of all buildings on a site. It includes half the width of any party wall and the full width of all other walls. It does not include the area of stairs, loading bays, accessways, or car parking areas, or any area occupied by machinery required for air conditioning, heating, power supply or lifts.

In addition to requirements in other provisions of the scheme particularly Schedule 1 to the Design and Development Overlay, Yarra (Birrarrung) River Corridor Protection, an application to construct a building on the site must include a site analysis and design response to the satisfaction of the responsible authority. The application is to contain the following:

- A design response that:
 - describes how the building respects and addresses the interface with Trenerry Crescent, Turner Street and the former industrial interface to the Yarra River Corridor;
 - addresses the sensitive river corridor environs in terms of materials and the suitable design and articulation of facades in order to minimise visual impacts when viewed from the river corridor and Yarra Bend Park; and
 - provides safe and efficient pedestrian and vehicle access to the building.
- A heritage impact statement prepared by a suitably qualified professional that assesses the impact of the proposed development on the heritage values of the heritage place.
- A visual impact assessment, to the specifications of the responsible authority, that provides for the following:
 - A 3D model of the development and its surrounds in conformity with the Department of Environment, Land, Water and Planning Infrastructure *Advisory Note – 3D Digital Modelling*. Where substantial modifications are made to the proposed building envelope, a revised 3D digital model must be submitted to the Responsible Authority;
 - Site line analysis and 3D modelling of the proposed development from key view points in the public realm to enable an assessment of the visual impact of the development on heritage places; and
 - Perspectives showing the visual prominence of the development from public vantage points along the Yarra River corridor (including Capital City Trail, Dights Falls and Yarra Bend Park).
- A car parking and traffic impact assessment that considers:

- the safe entry and exit of vehicles and how these minimise conflicts with any existing pedestrian and cycle links;
 - the means proposed to promote reduced car use and promote sustainable travel including opportunities for the provision of a car share system and Green Travel Plan initiatives that promote sustainable transport options including the provision of on-site bicycle storage and end-of-trip facilities;
 - the provision of car parking, circulation and layout of car parking, and the recommended bicycle parking provision rates.
- A landscape scheme that considers the suitability of existing vegetation on the site and measures to protect and enhance vegetation along the banks of the Yarra River (immediately east of the site) including a revegetation program and protection of the existing trees in Trenerry Crescent and Turner Streets.

2.0 Decision guidelines

DD/MM/Y
YYY
C218

In addition to requirements in other provisions of the scheme, particularly Schedule 1 to the Design and Development Overlay, Yarra (Birrarrung) River Corridor Protection, before deciding on an application the responsible authority must consider, as appropriate:

- How the proposed development responds to the purpose and objectives of the Incorporated Plan and accords with the 18-62 Trenerry Crescent Framework Plan;
- How the proposed development responds to the Yarra River Corridor Strategy which seeks to protect the natural characteristics of the Yarra River corridor;
- How the proposed development responds to the land use and built form guidelines and principles in Part 4 of the Johnston Street Local Area Plan, 2015;
- The impact of the height, bulk, design and appearance of the building or works on the character and amenity of the surrounding area;
- The scale and design of new development and its transition to the adjoining building at 64 Trenerry Crescent;
- The impacts of overshadowing on windows to habitable rooms in the existing building to the south and southern side footpath on Turner Street, caused by upper levels of new development, between 9am and 3pm on September 22 (equinox);
- How the proposed development has regard to the heritage significance of the place;
- The relationship of any new buildings to the street including entrances that provide opportunities for active or visual engagement and whether new buildings provide an attractive and engaging edge to the street environment through landscaping and/or architectural design features;
- The design of any car park area including how it relates visually to the street environment and the extent of activation of the frontage at street level;
- The impact of development on the surrounding road network, including the intersection of Trenerry Crescent and Johnston Street;
- The extent to which the design of any building and the materials used, minimises the visual impacts of built form when viewed from the Yarra River corridor and Yarra Bend Park;
- The extent to which the design of sustainable travel options are provided as part of the development, in accordance with a Green Travel Plan;
- The extent to which screening of mechanical plant equipment is achieved.

3.0 Requirements for incorporated plan

DD/MM/Y
YYY
C218

The incorporated plan must include:

- Objectives for the future use and development of the site.
- A plan showing:

- Relevant building heights and setbacks across the site;
- Building height in metres or RLs;
- Heritage features to be retained;
- Other heritage features;
- Vehicle entry and exit points for the site;
- Visual connections to the Yarra River Corridor;
- Areas of landscaping to minimise the visual intrusion of development in the Yarra River Corridor.

Reference Documents (Policy Reference)

DD/MM/Y
YYY
C218

Johnston Street Local Area Plan – December, 2015

City of Yarra, Yarra River Corridor Strategy, Planisphere, 2015

18-62 Trenerry Crescent, Abbotsford (Incorporated Plan)

1.0 The Plan

The 18-62 Trenerry Crescent, Abbotsford Plan consists of this ordinance and the 18-62 Trenerry Crescent Framework Plan

2.0 Purpose

To facilitate the use and development of the land at 18-62 Trenerry Crescent for a mixed use development including dwellings, retail premises and office uses that will provide jobs and business activity for the local area.

To encourage new development that respects the sensitive Yarra River corridor interface, the heritage values of the site and former industrial character of Trenerry Crescent.

To require new developments to apply the provisions and requirements of Schedule 1 to the Design and Development Overlay, Yarra (Birrarrung) River Corridor Protection.

3.0 Objectives

Use principles

- Encourage and support a mix of retail, office and accommodation uses that complement the location and bring life to the area.
- Retain employment generating land uses on the site, whilst permitting residential uses and encouraging mixed use activities consistent with the character of the area.
- Encourage offices, retail uses such as cafes and restaurants at the lower levels of any development that support local residential and commercial uses on the site and nearby.

Development principles

- Ensure that built form at the river corridor interface is well designed and articulated in order to break up the building mass and provide suitable setbacks to the Yarra River corridor.
- Locate taller built form towards the Trenerry Crescent interface (away from the river corridor) and set back upper levels from the street wall façade.
- Ensure that the form of development reflects high quality architecture, urban design and landscaping.
- Respect and seek to improve the public realm along the Turner Street frontage as a key pedestrian and cycling link to the Yarra River corridor.
- Provide separate entries for different land uses.

Landscape principles

- Encourage the use of sustainable practices in vegetation selection, stormwater runoff, removal of weeds, vegetation and revegetation of the Yarra River bank (between the title boundary and the Capital City Trail) with local indigenous species.
- Protect the street trees in Trenerry Crescent and Turner Street which provide a distinct landscape character and physically connect the urban environment with the Capital City Trail and the Yarra River.
- Seek to improve the streetscape in Turner Street with footpath upgrades and the introduction of Water Sensitive Urban Design initiatives.

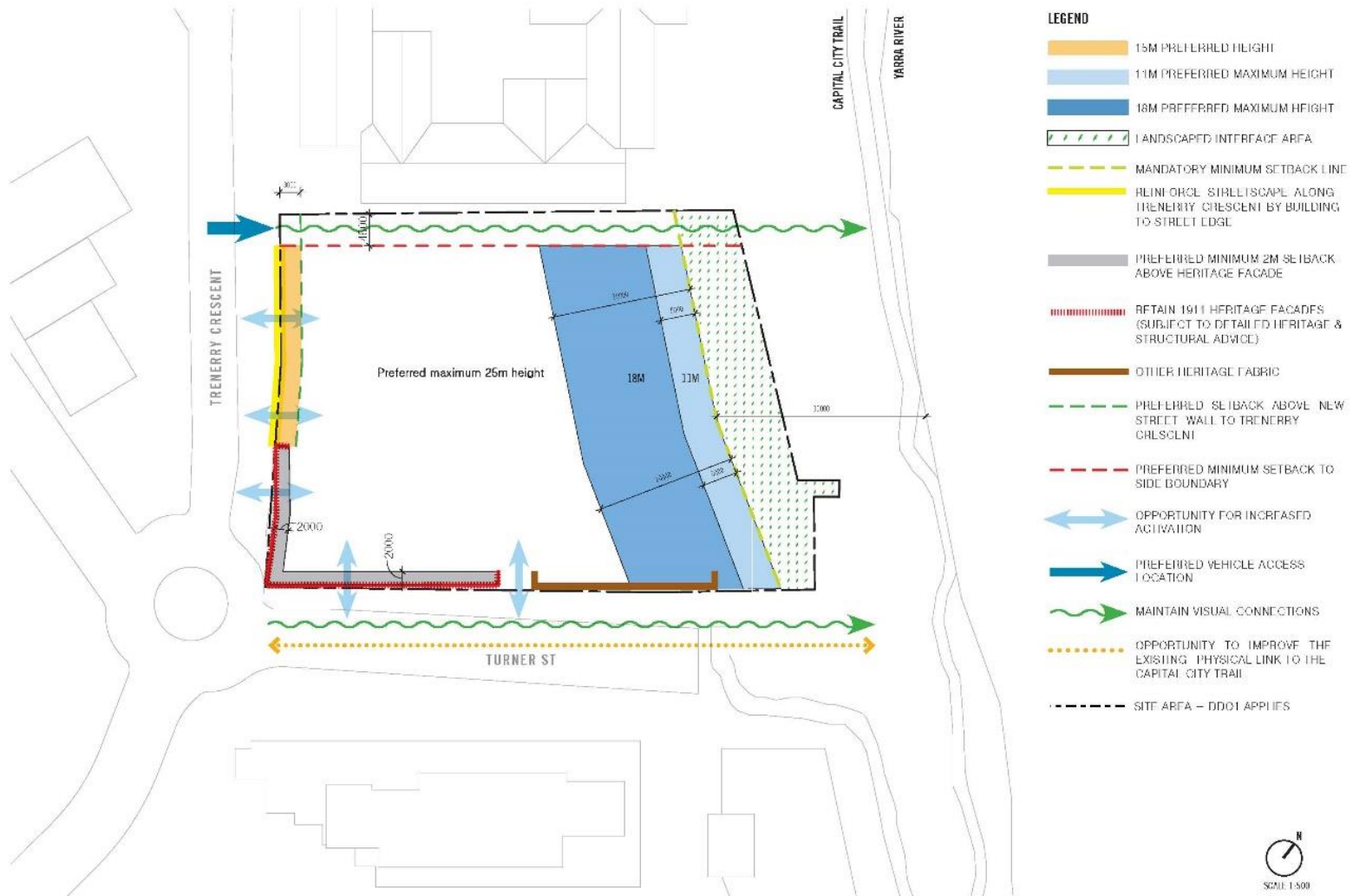
Sustainable Transport Principles

- Provide adequate and convenient on-site parking to cater for the needs of any mixed use development whilst acknowledging the provision of public transport in close proximity to the site and sustainable transport principles.

- Provide adequate bicycle facilities (bicycle storage spaces and end-of-trip facilities) for future residents and workers on the site to reduce the need for car parking spaces and consequently, reliance on motor vehicles.

Heritage principles

- Facilitate development that responds to the robust former industrial buildings along the east side of Trenerry Crescent, acknowledging the change that has occurred along Trenerry Crescent and having regard to the built form expectations outlined in the Johnston Street Local Area Plan 2015.
- Retain the identified heritage façades shown on the 18-62 Trenerry Crescent Framework Plan in Figure 1 and where appropriate, other elements of the heritage fabric to provide a contextual link to the historical industrial uses along Trenerry Crescent.
- Maintain a visual connection to the retained heritage elements on the site when viewed from Trenerry Crescent and Turner Street.
- Provide an appropriate separation and/or transition between the street wall façade height of new development and the façade of the existing heritage building, as viewed along Trenerry Crescent.
- Provide appropriate setbacks and/or transitions from Trenerry Crescent and Turner Street at upper levels beyond the street wall height to minimise visual dominance of upper levels in the street, as well as the potential for overshadowing the property to the south.
- Ensure that upper level development is sufficiently setback and/or transitioned from the retained heritage façades to enable them to be understood as having three dimensional form and appreciated as separate from the new development above and/or behind.
- Provide an appropriate design response to the heritage building on the site in accordance with a Heritage Impact Statement.



Appendix D Panel preferred version of citation for the C218 land at 18-62 Trenerry Crescent Abbotsford

W. Saunders & Son Factory/Warehouse Complex (later Esprit de Corps offices)

Address: 20-60 Trenerry Crescent, Abbotsford

Prepared by: GJM Heritage and as amended by P Lovell

Survey Date: 25

July 2016

Place type: Factory/warehouse	Architect: No known (1911, 1920s), Daryl Jackson (1984 alterations)
Grading: Individually Significant	Builder: Not known
Integrity: Moderate-High (1911); Low (1920s); High (1984)	Construction Date: 1911, 1920s, 1984
Status: Included in the Heritage Overlay (HO337 - Victoria Park Precinct, Abbotsford) No external paint, internal alteration or tree controls apply to Precinct	Extent of Overlay: As existing, refer to plan



Figure 1. 20-60 Trenerry Crescent, Abbotsford: the facade of the 1911 building.



Figure 2. The north-west elevation of the 1911 building (right) with its gabled third-storey, the 1984 glazed walkway and the modified 1920s brick office building (left).



Figure 3. The 1920s factory building (right) and 1984 two- storey glazed structure that links the 1920s and 1911 buildings.



Figure 4. The subject site (red) and the existing boundary of HO337 Victoria Park Precinct (pink) (2016).

Historical Context

The following historical context is taken from the HO337 Victoria Park Precinct citation¹, unless otherwise cited.

The area surrounding Victoria Park to the Yarra River includes parts of Crown Portions 78, 79 and 88, which had been surveyed by Robert Hoddle and sold in 1839 to R Dacre, J D L Campbell (a pastoralist) and J Dight, respectively. John Dight built Yarra House (later the Shelmerdine residence) and a mill on his allotment, and Campbell built his house, Campbellfield House (later owned by architect and MLA William Pitt as Mikado) on his land overlooking the Yarra River.

In 1878, Edwin Trenerry, a shareholder in a deep lead mining company, subdivided Crown

¹ Victorian Heritage Database (VHD), City of Yarra citation for 'Victoria Park Heritage Precinct', accessed July 2016.

Portions 78, 79 and 88 for residential development, creating the existing street pattern. The design recalled the earlier Darling Gardens development at Clifton Hill, with Victoria Park intended as an ornamental garden square, surrounded by residential properties with 33' frontages to the park. By 1879 much of the land had been sold to David Abbott, with some lots sold to James and John Kelly in the next year. By 1885, all the lots had been sold, and development of many of them had begun.

Trenerry Crescent followed the line of the Yarra River and separated the larger riverside allotments from the smaller residential subdivisions to the west. By the turn of the century, the river frontage allotments along Trenerry Crescent were undergoing a transformation from gentlemen's farms to industrial uses. The Melbourne Flour Milling Company operated at the old Dight's Mill site on the Yarra from 1891, at the north end of Trenerry Crescent, with the Shelmerdine's Yarra Hat Works and a quarry located further to the south, both since redeveloped.

Abbotsford emerged as a centre for the textile industry during the interwar period, with much of the vacant land between Johnson Street, Trenerry Crescent and the Yarra River developed with textile mills.² The massive Austral Silk and Cotton Mills complex was built at the north end of Trenerry Crescent in 1927 and the Yarra Falls Spinning Mills had also expanded in the area during the early 20th century. Their administrative complex was built in 1919 facing Johnston Street and the landmark 1930s Byfas building was built, facing Trenerry Crescent, to produce textiles during World War Two. The combination of these extensive industrial complexes has a strong built character that is evident from within the Heritage Overlay Area and from distant views down the Yarra River and the Eastern Freeway.

In the last two decades of the 20th century, these large industrial and mill buildings have gradually been decommissioned and recycled for light industrial, commercial or residential uses.

Place History

The complex at 20-60 Trenerry Crescent comprises four buildings (six structures in total) constructed between 1911 and the mid-1980s.

From July 1890 Arthur and Isabella Hope owned eight lots on the north side of Trenerry Crescent, which comprised what became Turner Street, and lots to the west. Following the death of both, the lots were transferred to George Hope and William Maclennan in 1900, who on-sold the lots individually from 1906.³

The 1901 Melbourne Metropolitan Board of Works Detail Plan (No. 1230) indicates that the subject site was vacant at this date. In September 1909, the Abbotsford Manufacturing Company Pty Ltd purchased the lot on the north-west corner of Trenerry Crescent and Turner Street, with a frontage of 20.1 metres (60ft) to Trenerry Crescent.⁴ In July 1911, William Stone, clerk, and William Saunders the Younger, malt extract manufacturer of Vacluse Street, Richmond, purchased the lot.⁵

The factory building located on the front title boundary was built in 1911 for W. Saunders & Son, manufacturers of malt extract and cod liver oil. The industrial building to the rear, adjoining Turner Street, is believed to have been built in the 1920s for an engineering works.⁶

On 24 May 1919, William Stone became the surviving proprietor, however, on the same date the property was transferred to W. Saunders & Son Pty Ltd, of Trenerry Crescent, Abbotsford.⁷ From the 1910s, the lot to the west was also under the same ownership, on separate titles.⁸ W. Saunders & Son Pty Ltd was described as 'Pure Malt extract and cod liver oil and Maltcrete manufacturers, agents for Zeestos' in 1920,

² Gary Vines & Matthew Churchward (1992) 'Northern Suburbs Factory Study', Part One: 63.

³ Land Victoria (LV), Certificate of Title V:2279/ F669.

⁴ LV, Certificate of Title, V:3384/F680.

⁵ LV, Certificate of Title, V:3384/F680.

⁶ Heritage Victoria (HV) assessment of 'Esprit De Corps Complex, 40 Turner Street & 40-60 Trenerry Crescent, Abbotsford', accessed via Hermes 13 Jul 2016.

⁷ LV, Certificate of Title, V:3384/ F680.

⁸ LV, Certificates of Title, V:3694/ F664.

while billboards advertised 'Saunders' Malt Extract in 1930 (Figure 5).⁹

Aerial photos dating to 1966 show the saw-tooth roof of the 1911 building on the corner of Turner Street, and the parallel gabled-roofs of the 1920s building adjacent to the river. Other buildings are visible on the site at this date, including a tower adjacent to the 1920s building (since removed) (Figures 6 & 7).

In October 1966, Mauri Brothers and Thomson (Aust.) Pty Ltd became joint proprietors of the site, before it was sold to Anco Plastics Pty Ltd, of 18 Trenerry Crescent, in August 1970. The property was subsequently owned by Trenjohn Pty Ltd from 1972, and Bracebridge Pty Ltd from 1981.¹⁰ In May 1982, Bracebridge Pty Ltd consolidated the lots to form a 41.45 metre frontage to Trenerry Crescent (the current 20-60 Trenerry Crescent).¹¹

In 1984, architect Daryl Jackson AO designed works to accommodate the reuse of the place by the Esprit de Corps clothing company. The development adapted the three early twentieth century buildings which underwent some alterations, while the new structures comprised glazed links and a new warehouse/workroom building on the north-east corner of the site. Jackson's design integrated a stylised industrial theme appropriate to the site's history and received a citation as a finalist in the Royal Australian Institute of Architects Presidents Award in 1985.¹² In January 1988 the portion of land next to the river was subdivided off. The property was owned by various companies after this date, and is currently under a 30 year lease to Citipower Pty (from 1999).¹³

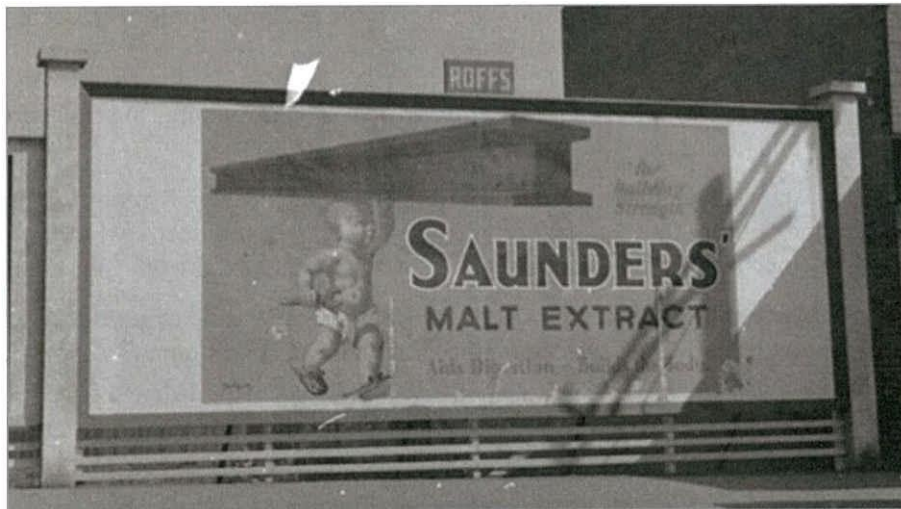


Figure 5. A c 1930s billboard in Sydney for 'Saunders Malt Extract'
(Source: State Library of NSW, 'Billboard advertising Saunders', No. 29837).

⁹ Vines & Churchward (1992) 'Northern Suburbs Factory Study', Part Two: 246.

¹⁰ LV, Certificate of Title, V:3384/ F680.

¹¹ LV, Certificate of Title, V:9464/ F422.

¹² HV assessment of 'Esprit De Corps Complex, 40 Turner Street & 40-60 Trenerry Crescent, Abbotsford', accessed via Hermes 13 Jul 2016.

¹³ LV, Certificate of Title, V:9464/ F422.

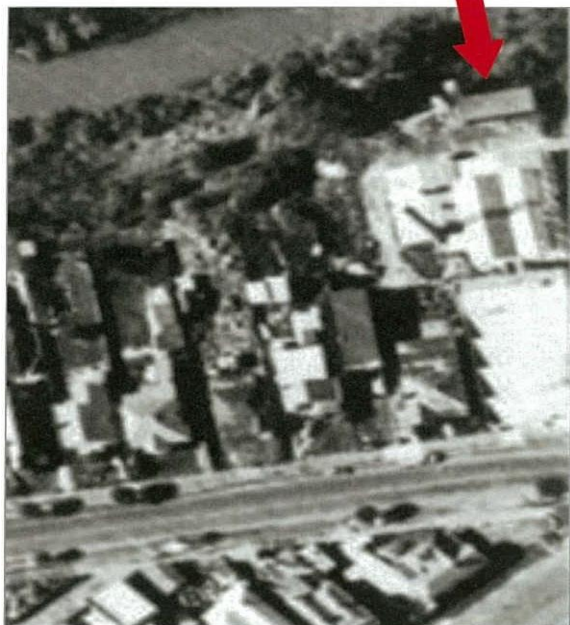


Figure 6. A detail of a 1966 aerial of Trenerry Crescent, showing the subject site (Source: COYL, ID. CL PIC 105).



Figure 7. Detail of a second 1966 aerial of Trenerry Crescent and Yarra Falls (Source: COYL, ID. YL CL Pie 104).

This place is associated with the following themes from the *City of Yarra Heritage Review Thematic History* (July 1998):

- 4.0 Developing Local Economies
- 4.2 Secondary Industry

Description

The site is occupied by a complex of industrial and office buildings dating from 1911 and the 1920s. In 1984 architect Darryl Jackson AO designed additions and made alterations to the existing buildings to accommodate the site's re-use by the Esprit de Corps clothing company.

The 1911 building presents as a single-storey building fronting Trenerry Street (located on the Trenerry Crescent and Turner Street title boundaries), but extends to three-storeys in height at the rear as the building responds to the topography of the site as it slopes down towards the Yarra River. The brick building retains a saw-tooth roof which is hidden behind parapets on the three main elevations. The facade and parapet is rendered and overpainted. The parapet is defined by string moulds at its top and base.

Subtle Classical details are expressed in engaged pilasters that break the facade into five bays and extend above the parapet at the entrance and corners. The central entrance (with a modern aluminum framed door) has a later cantilevered steel porch. Either side of the entrance are pairs of timber-framed casement windows of various sizes. The side elevations are face-brick with rows of single timber-framed casement windows with segmental-arches. Some sills have been replaced (probably during the 1984 development). Vents at ground level on the Turner Street elevation are also later additions dating from the 1980s. The building terminates at the rear with a third-storey with a gabled roof and circular vents to the gabled-ends.

To the rear of the site is the original 1920s red-brick engineering works survives as a fragment as now largely overbuilt in the 1984 works. This building approximates its original form and scale (see Figures 6 & 7) but the brickwork shows multiple stages of alterations, particularly fronting Turner Street. The windows and sills, the entrance off Turner Street, and a large second-storey glazed addition to the rear of the building date from the 1984 development of the site.

The 1984 works include a the adapted 1920s red-brick building on the northern boundary of the site, the glazed walkway between this building and the 1911 building, a two-storey glazed link between the 1911 and

1920s buildings to the east and a glazed warehouse/workroom building to the rear of the site constructed on an exposed off-form reinforced concrete base.

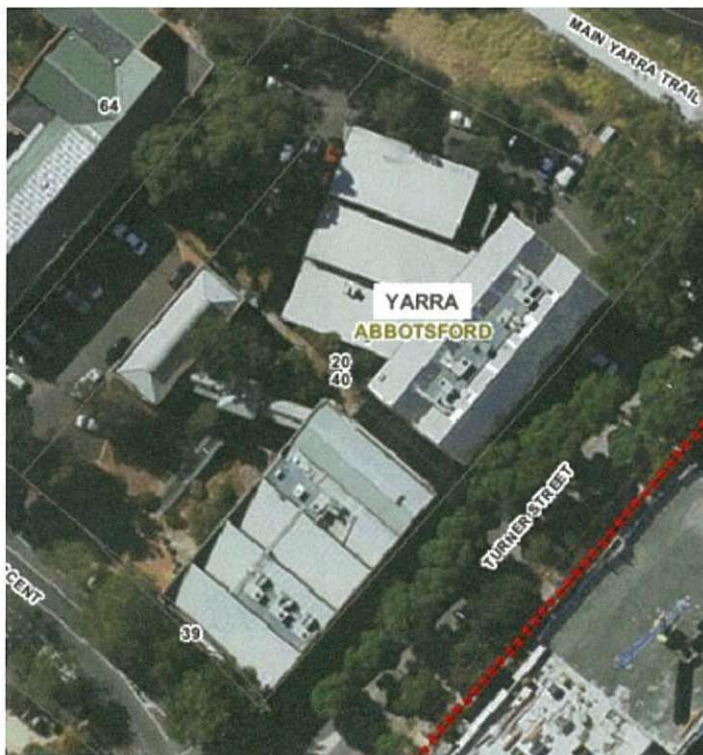


Figure 8. An aerial of the site dating to 2010 (Source: Planning Maps Online, 2016)

Condition and Integrity

The 1911, 1920s and 1984 buildings have been well maintained and are all in good condition.

The 1911 building retains a moderate to high level of integrity. The 1920s building has a lower level of integrity due to various stages of alterations, most probably dating to the 1980s redevelopment of the site.

The 1984 structures retain a high level of integrity.

Comparative Analysis

This comparative analysis focuses on the 1911 building fronting Trenerry Street which is the earliest and most intact pre- World War II building on the site. The analysis has been informed by a search of the Hermes database and includes places that are individually significant within a precinct-based Heritage Overlay within the City of Yarra.

The following places are comparable in historic use, construction date or architectural style or form:

Braun, C J & Co, Shoe Manufactures Factory/Warehouse (former), later Blue Laser Jean Company, 92-94 Easey Street, Collingwood (Individually Significant within HO321)

This brick and render factory was built in 1933 in the Moderne style, with distinctive details such as the sunburst 'keystone', stepped parapet and string mould. The former factory has now undergone a conversion to flats but the facade remains predominantly intact.

Although the W. Saunders & Son Factory/Warehouse Complex was constructed during an earlier period, the 1911 building is comparable to the Easey Street factory in construction materials, the form and scale of the symmetrical facade, both with stepped parapets defined by string moulds and central entrances with flanking windows. The subject site is much grander in scale with a more dominant presence along two streets, in comparison to the more modest Easey Street factory.

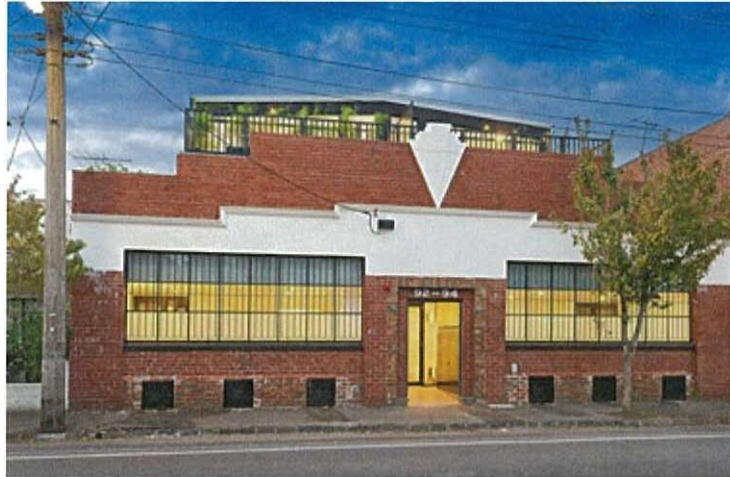


Figure 9. 92-94 Easey Street, Collingwood following the conversion to flats © realestate.com

Former Factory at 40 Reid Street, Fitzroy North (Individually Significant within Precinct HO327)

Constructed between 1900 and 1915, the former factory is a single-storey red-brick construction with a parapet, distinctive parapeted gable and single windows. Pilasters define entrances on the facade. The factory has now been converted to apartments, with additions constructed above the saw-tooth roof level and windows on the side elevations altered. With additions and alterations, the Edwardian fabric retains a moderate level of integrity.

The W. Saunders & Son Factory/Warehouse Complex is a similar red-brick construction and has a comparable application of architectural treatment, albeit in a slightly different expression. The subject site retains a higher degree of integrity as it retains its original profile and roof form.

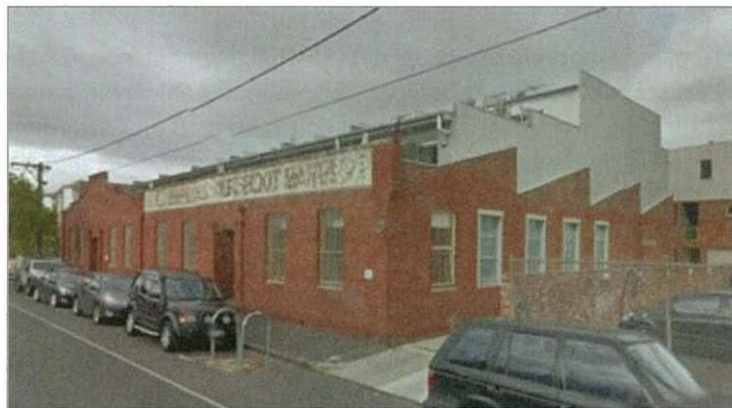


Figure 10. 40 Reid Street, Fitzroy North (© Google)

Former factory at the rear of 16 Arnold Street, Princes Hill (Individually significant within Precinct HO329)

This former factory, constructed between 1900 and 1915, is a two-storey, face-brick construction with a hipped roof, addressing two streets. It retains a high level of integrity. The factory occupies a similar footprint to the 1911 building at the W. Saunders & Son Factory/Warehouse Complex. While their roof forms differ, they are comparable in terms of the unadorned red-brick elevations with repetitive rows of single window placement. The W. Saunders & Son Factory/Warehouse Complex building has more elaborate architectural treatment and detail to the facade in comparison, but is less intact due to alterations to the windows and sills.



Figure 11. Rear of 16 Arnold Street, Princes Hill (©Google)

Conclusion

The W. Saunders & Son Factory/Warehouse Complex has a modestly-scaled facade fronting Trenerry Crescent but a dominant and increasing presence a long Turner Street as the buildings respond to the topography as it slopes down towards the Yarra River. Architecturally, the 1911 former factory is typical of factories constructed during the Edwardian period with subtle Classical expression to the Trenerry Crescent facade.

The 1984 additions to the complex by Daryl Jackson AO for the Esprit de Corps company are a well resolved contextual design response to the 1911 and 1920s buildings. This design still provides an effective integration of the various buildings on the site and is a successful example of adaptive reuse of former industrial buildings.

Assessment Against Criteria

Following is an assessment of the place against the heritage criteria set out in Planning Practice Note 1: Applying the Heritage Overlay (July 2015).

Criterion A: *Importance to the course or pattern of our cultural or natural history (historical significance).*

The place is one of the remaining examples of industrial development in Abbotsford, and particularly on Trenerry Crescent along the Yarra River, where industrial development began from the turn of the century. The 1911 building is of historical value as an example of an Edwardian-era factory, built for W. Saunders & Son, who were manufacturers of malt extract and cod liver oil. The place is of historical interest as evidencing subsequent stages of development on an industrial site, including the 1920s building which is believed to have been built for an engineering works and the 1984 additions designed by architect Daryl Jackson for the Esprit de Corps company.

6 Criterion E: *Importance in exhibiting particular aesthetic characteristics (aesthetic significance).*

The Edwardian building is of aesthetic significance for its architectural presence within the early twentieth century industrial streetscape of Trenerry Crescent and within the riverscape of the Yarra River. The 1911 building has subtle Classical details to the facade, and respond to the topography of the site by increasing in height and presence as the land slopes towards the Yarra River.

The new structures designed by architect Daryl Jackson AO in 1984 are of architectural interest, as an example of the innovative adaptive re-use of a set of former factory buildings that respected the forms, materials and architectural language of the early twentieth century industrial context.

Statement of Significance

What is significant?

The W. Saunders & Son Factory/Warehouse Complex at 20-60 Trenerry Crescent, Abbotsford.

The 1911 Edwardian building is of primary significance to the site. The 1984 new and adapted structures designed by architect Darryl Jackson AO are of contributory significance to the site. Alterations and additions that have occurred since 1984 are not significant.

How is it significant?

The W. Saunders & Son Factory/Warehouse Complex is of local historical and aesthetic significance to the City of Yarra.

Why is it significant?

The W. Saunders & Son Factory/Warehouse Complex is of historical significance as one of the remaining examples of the industrial development in Abbotsford, and particularly on Trenerry Crescent along the Yarra River, where industrial development began from the turn of the century. The 1911 building is of historical value as an externally intact example of an Edwardian-era food processing factory, built for W. Saunders & Son, who were manufacturers of malt extract and cod liver oil. The place is of historical interest for its ability to demonstrate subsequent stages of development on an industrial site, including the 1920s building which is believed to have been built for an engineering works and the 1984 additions designed by architect Daryl Jackson for the Esprit de Corps company. (Criterion A)

The Edwardian building is of aesthetic significance for its architectural presence within the early twentieth century industrial streetscape of Trenerry Crescent and within the riverscape of the Yarra River. The 1911 building has subtle Classical details to the facade, and responds to the topography of the site by increasing in height and presence as the land slopes towards the Yarra River. (Criterion E)

The works designed by architect Darryl Jackson in 1984 are of aesthetic interest, as an example of an innovative adaptive re-use of former factory buildings that respects the forms, materials and architectural language of the early twentieth century industrial context. These include the adapted red-brick building on the northern boundary of the site, a glazed walkway between this and the 1911 building the two-storey glazed link between the 1911 and 1920s buildings and a glazed warehouse building to the rear of the site. The design integrated a stylised industrial theme in consideration of the site's Edwardian and Interwar buildings. (Criterion E)

Grading and Recommendations

It is recommended that the place continue to be included in the Heritage Overlay of the Yarra Planning Scheme as an individually significant place within the Victoria Park Precinct, Abbotsford (HO337).

Recommendations for the Schedule to the Heritage Overlay (Clause 43.01) in the Yarra Planning Scheme:

External Paint Controls?	No
Internal Alteration Controls?	No
Tree Controls?	No
Outbuildings or Fences not exempt under Clause 43.01-3?	No
Prohibited Uses Permitted?	No
Incorporated Plan?	HO337 Precinct: Yes
Aboriginal Heritage Place?	Not assessed

Identified by:

Andrew C. Ward & Associates (May 1995), 'Collingwood Conservation Study Review'.

References:

Andrew Ward C. & Associates (May 1995), 'Collingwood Conservation Study Review'.

City of Yarra Library (COYL) Catalogue, <<http://www.yarracity.vic.gov.au/Libraries/Search-the-catalogue/>>, accessed July 2016.

Graeme Butler and Associates (2007), 'City of Yarra Review of Heritage Overlay Areas, Appendix 8'.

Land Victoria, Certificates of Title.

Melbourne Metropolitan Board of Works Detail Plans

State Library of NSW, online Manuscripts, oral history & pictures collection, <<http://archival-classic.sl.nsw.gov.au/>>, accessed July 2016.

Victorian Heritage Database (VHD), City of Yarra citation for 'Victoria Park Heritage Precinct', accessed July 2016.

Heritage Victoria (HV) assessment of 'Esprit De Corps Complex, 40 Turner Street & 40-60 Trenerry Crescent, Abbotsford', accessed via Hermes 13 Jul 2016.

Vines, Gary & Matthew Churchward (1992) 'Northern Suburbs Factory Study'.

Appendix E Panel preferred version of Amendment C219

DD/MM/YY YY C219 SCHEDULE 14 TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO14**.

112-124 & 126-142 Trenerry Crescent, Abbotsford

This schedule applies to land generally known as:

- 112-124 Trenerry Crescent, Abbotsford
- 126-142 Trenerry Crescent, Abbotsford

1.0 Requirement before a permit is granted

DD/MM/YY
YY C219 A permit may be granted before a development plan has been approved to allow

- The use of an existing building.
- Minor buildings and works to existing buildings.
- Subdivision of land, provided that the subdivision is the result of a consolidation of all or parts of the site or the re-subdivision of the land and the number of lots is not increased.
- Removal or creation of easements or restrictions.
- Buildings or works associated with the remediation of the land in accordance with or for the purpose of obtaining a Certificate or Statement of Environmental Audit under the Environment Protection Act 1970.

Before any planning permit is granted the responsible authority must be satisfied that the permit will not prejudice the future use and development of the land in an integrated manner and will contribute to the vision of the site.

2.0 Conditions and Requirements for Permits

DD/MM/YY
YY C219 Except for a permit issued as provided for under Clause 1.0, a permit must contain conditions or requirements which give effect to the provisions and requirements of the approved Development Plan.

In addition to any requirements in other provisions of the scheme, particularly Schedule 1 to the Design and Development Overlay – Yarra (Birrarrung) River Corridor Protection, an application must be accompanied by the following information (as appropriate):

- The proposed uses of each building and estimated floor area for each use;
- The number of proposed dwellings, where relevant, including the mix of residential development densities and dwelling types;
- A design response that describes how the development responds to the vision for the site and the design guidelines in the approved development plan;
- A visual impact assessment that provides the following:
 - A 3D model of the development and its surrounds in conformity with the Department of Environment, Land, Water and Planning Infrastructure Technical *Advisory Note – 3D Digital Modelling*. Where substantial modifications are made to the proposed building envelope, a revised 3D digital model must be submitted to the Responsible Authority
 - Site line analysis and 3D modelling of the proposed development from key view points (such as the Yarra River corridor and Dights Falls) in the public realm to enable an assessment of the visual impact of the development on the heritage values of the former Austral Silk and Cotton Mills building and substation at 112-124 Trenerry Crescent

- Perspectives showing the visual prominence of the development from public vantage points along the Yarra River corridor (including Capital City Trail, Dights Falls and Yarra Bend Park), and to the specifications of the responsible authority;
- A Heritage Impact Statement prepared by a suitably qualified heritage consultant, which outlines how the proposed development has regard to heritage values of the former Austral Silk and Cotton Mills building and substation at 112-124 Trenerry Crescent, along with relevant citations and studies;
- A car parking and traffic impact assessment that considers:
 - the safe entry and exit of vehicles and how these minimise conflicts with any existing pedestrian and cycle links
 - the means proposed to promote reduced car use and promote sustainable travel including opportunities for the provision of a car share system and Green Travel Plan initiatives that promote sustainable transport options including the provision of on-site bicycle storage and end-of-trip facilities
 - the provision of car parking, circulation and layout of car parking, and the recommended bicycle parking provision rates;
- A Landscape Plan;
- An acoustic report (with a particular focus on the interface with the freeway) prepared by a suitably qualified acoustic engineer assessing, as appropriate, how the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, sleep disturbance criteria and relevant Australian Standards will be met and must prescribe the form of acoustic treatment taking into consideration the agent of change principle.

3.0 Requirements for Development Plan

DD/MM/YY
YY C219

The Development Plan must be consistent with the following Vision for the site, and be generally in accordance with the *Indicative Framework Plan* as shown in Figure 1 to the satisfaction of the responsible authority. In addition the Development Plan must be consistent with any requirements in other provisions of the scheme, particularly Schedule 1 to the Design and Development Overlay – Yarra (Birrarrung) River Corridor Protection.

The development plan may be prepared in stages if the responsible authority is satisfied this will not prejudice the preparation of the development plan.

The Development Plan for any part of the development area or for any stage of development may be amended from time to time to the satisfaction of the responsible authority.

Vision

The development will:

- support employment generating land uses whilst permitting residential uses and encouraging mixed use activities reflective of the character of the area;
- provide a high quality architectural design, built form and landscaping response which acknowledges the site's prominent location adjoining the Yarra River and the Eastern Freeway, and minimise the visual impact of new buildings when viewed from the Yarra River and adjacent public open space, bicycle and shared paths and bridge crossings;
- utilise materials that are respectful of the natural characteristics of the river corridor and respond to the former industrial character of Trenerry Crescent;
- sensitively adapt and reuse the former Austral Silk and Cotton Mills warehouse and factory complex and substation at 114-124 Trenerry Crescent to maintain its heritage value and robust industrial character;

- not dominate views to the former Austral Silk and Cotton Mills complex from the Yarra River corridor;
- maintain key views to Yarra River corridor and to the western facade and appropriate views of the upper levels of the former Austral Silk and Cotton Mills complex when viewed from Trenerry Crescent;
- Provide appropriate opportunities for the improvement of the safety of pedestrian and cyclist movements at the north western corner of the site.

Components

The Development Plan must include the following to the satisfaction of the responsible authority:

Existing Conditions Analysis

- A site context analysis that identifies the key attributes of the land, including:
 - topography;
 - existing vegetation;
 - location of existing buildings and significant trees and vegetation;
 - existing or proposed uses and buildings on adjoining land;
 - the contextual relationship of the site and proposed built form to the Yarra River Corridor, the Eastern Freeway and surrounding road network walking and cycling connections, and public transport;
 - key view-lines to the site from the Yarra River corridor (including Capital City Trail, Dights Falls and Yarra Bend Park) and the Eastern Freeway;
 - views through the site from Trenerry Crescent to the Yarra River Corridor; and
 - key views to the former Austral Silk and Cotton Mills warehouse and factory complex and substation at 114-124 Trenerry Crescent from Trenerry Crescent.
- An arboricultural assessment of any significant vegetation on the land, including advice on the long term health and retention value of such vegetation.

Plans and Reports

- A site plan(s) which shows:
 - the existing heritage building with any extensions and alterations;
 - the indicative siting and orientation of other proposed building(s) on the site and the relationship to buildings on adjoining land;
 - the indicative location of car and bicycle parking areas;
 - the vehicle and pedestrian access locations;
 - the location of any areas of public open space; and
 - the anticipated uses of each building.
- Plans showing:
 - Indicative building envelopes and massing diagrams for new buildings including street wall heights, maximum building heights, the separation distances between buildings, the setback from the street frontage, and how the development addresses the street;
 - The principles for the proposed built form interface to – the Yarra River Corridor (eastern interface), Trenerry Crescent (western interface), the Eastern Freeway (northern interface) and the interface with existing pedestrian/cycle links (including Capital City Trail);
 - Shadow diagrams of the proposed building envelopes shown in the proposed Development Plan between 11:00am and 2:00pm on 22 June.
 - A Landscape Plan that includes:

- the location of landscape areas on all interfaces as appropriate, including the Yarra River Corridor;
- guidelines for landscape and fencing treatments with the Yarra River Corridor and how this enhances the bushland character of the river corridor and protects and integrates with existing vegetation and planting;
- details on the management of landscaped areas, including sustainable irrigation treatments such as water sensitive urban design opportunities.
- Proposed staging plan (if relevant).
- A Heritage Impact Assessment prepared for the former Austral Silk and Cotton Mills building and substation at 112-124 Trenerry Crescent by a suitably qualified heritage consultant, that:
 - articulates the significance of the heritage place, its component parts, and its setting (including in relation to the Yarra River corridor);
 - describes the relationship between the heritage place and any neighbouring or adjacent heritage place/s; and
 - establishes principles for managing the significance of the heritage place and its relationship with its surroundings.
- A Traffic Management Report identifying:
 - the safe entry and exit of vehicles and how these minimise conflicts any existing pedestrian and cycle links;
 - the means proposed to promote reduced car use and promote sustainable travel including opportunities for the provision of a car share system and Green Travel Plan initiatives;
 - the recommended car parking and bicycle parking provision rates.










Design Guidelines

- Design guidelines for the entire site, including but not limited to:
 - The treatments of key interface areas that reflect the principles for each interface and respond to key views;
 - Building materials, treatments, including reflectivity details and architectural styles through the site;
 - The treatments for communal open space;
 - The response of the development to the heritage former Austral Silk and Cotton Mills building and substation at 112-124 Trenerry Crescent as identified in a heritage impact assessment prepared for the place;
 - The treatment of building services, including roof top services/elements, should be screened from the public realm.

Figure 1 Indicative Framework Plan



LEGEND

- | | | | |
|---|--|---|---|
|  | SITE AREA - DDO1 APPLIES |  | EXPLORE IMPROVEMENTS TO CORNER FOR PEDESTRIANS AND CYCLISTS THROUGH NEGOTIATIONS WITH LANDOWNER |
|  | EXISTING PEDESTRIAN / BICYCLE LINKS AND CAPITAL CITY TRAIL |  | HERITAGE SUBSTATION |
|  | MAINTAIN VIEWS TO HERITAGE BUILDING FACADES |  | WELL DESIGNED AND ARTICULATED BUILT FORM (THE PROVISIONS OF DDO1 AND SLO1 RELATING TO HEIGHT AND SETBACK APPLY) |
|  | KEY VIEWS TO HERITAGE BUILDING |  | POTENTIAL PUBLIC LINK OPPORTUNITY TO BE NEGOTIATED WITH LANDOWNER |
|  | MAINTAIN VIEWS TO UPPER LEVELS OF HERITAGE FACADE / DEVELOPMENT TO RESPECT THE HERITAGE BUILDING |  | RETAIN VISUAL CONNECTION TO YARRA RIVER CORRIDOR THROUGH NEGOTIATION WITH LANDOWNER |
|  | PREFERRED MAXIMUM 18M STREET WALL HEIGHT / 5M SETBACK TO UPPER LEVELS | | |
|  | ENHANCE INTERFACE WITH PUBLIC REALM | | |