

Planning and Environment Act 1987

Panel Report

Yarra Planning Scheme Amendment C231

Queens Parade Built Form Review

31 October 2019

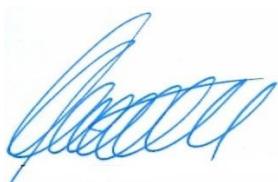
Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Yarra Planning Scheme Amendment C231

Queens Parade Built Form Review

31 October 2019



Kathy Mitchell, Chair



Jenny Donovan, Member



Peter Gaschk, Member

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Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
Appendix 8	<i>City of Yarra Review of Heritage Overlay Areas 2007, September 2018</i>
Built Form Review	Queens Parade Clifton Hill Built Form Review 2017
C1Z	Commercial 1 Zone
C2Z	Commercial 2 Zone
Council	Yarra City Council
DELWP	Department of Environment, Land, Water and Planning
DDO16	Design and Development Overlay Schedule 16
EAO	Environmental Audit Overlay
GRZ	General Residential Zone
Heritage Analysis	Queens Parade Built Form Heritage Analysis and Recommendations
HO	Heritage Overlay
Housing Strategy	Yarra Housing Strategy (2018)
LPP	Local Planning Policies
MFB	Metropolitan Fire Brigade
MSS	Municipal Strategic Statement
MUZ	Mixed Use Zone
NAC	Neighbourhood Activity Centre
NRZ	Neighbourhood Residential Zone
PPF	Planning Policy Framework
PPN	Planning Practice Note
PPRZ	Public Park and Recreation Zone
PUZ	Public Use Zone
QPAC	Queens Parade Activity Centre
QPHPTG	Queens Parade Heritage, Planning and Traders Group
SEES	Spatial Economic and Employment Strategy (updated 2018)
SPP	State Planning Policy
VHR	Victorian Heritage Register
VIF	Victoria in Future
VPP	Victoria Planning Provisions

Overview

Amendment summary	
The Amendment	Yarra Planning Scheme Amendment C231
Common name	Queens Parade Built Form Review
Brief description	<p>Introduce Design and Development Overlay Schedule 16 along Queens Parade in Fitzroy North and Clifton Hill</p> <p>Rezone land at 660 to 668 Smith Street and 1 to 41 Queens Parade from Commercial 2 Zone to Commercial 1 Zone and apply the Environmental Audit Overlay on the same land</p> <p>Introduce new Reference Documents into Clause 22.01</p> <p>Make several updates to the Heritage Overlay and update the relevant Incorporated Document</p>
Subject land	Five precincts in and along Brunswick Street and Queens Parade in Fitzroy North, between Alexandra Parade in Clifton Hill and Brunswick Street in Fitzroy North
Planning Authority	City of Yarra
Authorisation	30 July 2018
Exhibition	1 October to 30 November 2018
Submissions	414 (see Appendix A)
Panel process	
The Panel	Kathy Mitchell (Chair), Jenny Donovan and Peter Gaschke
Directions Hearing	16 July 2019 at Planning Panels Victoria
Panel Hearing	12, 13, 14, 15, 19, 20, 21, 22, 23, 26, 28 August and 2 September 2019 at Planning Panels Victoria
Site inspections	Unaccompanied on 6 August 2019, accompanied on 27 August 2019, unaccompanied post Hearing on other occasions
Appearances	See Appendix B
Citation	Yarra Planning Scheme C231 [2019] PPV
Date of this Report	31 October 2019

Executive summary

Melbourne is experiencing significant population growth which will continue in the immediate and long-term future. All municipalities have a responsibility to accommodate its fair share of population growth and to provide options for a range of housing opportunities in various geographic locations. Population growth is provided for through State planning policy, *Plan Melbourne* and local policy. The City of Yarra has recognised this through recent strategic planning work in Amendment C231 to its Planning Scheme for the area known as the Queens Parade Activity Centre in Clifton Hill and Fitzroy North.

The Council has proposed a new Schedule 16 to the Design and Development Overlay that provides for a range of mandatory and discretionary heights and setbacks in five precincts to ensure a balanced approach to population growth that respects the recognised heritage values of Queens Parade. In addition, the Amendment seeks to update the Heritage Overlay and rezone land from Commercial 2 Zone to Commercial 1 Zone and apply the Environment Audit Overlay in an area that wraps around Queens Parade and Smith Street.

The Queens Parade Activity Centre is designated to take a significant share of population growth for Yarra along its length from the intersection of Queens Parade and Brunswick Street in the south and the Hoddle Street/Heidelberg Road interchange in the north. The Queens Parade Activity Centre is an area of diverse heritage and character that is focussed on the 60-metre wide boulevard of Queens Parade.

Due to its location in the context of metropolitan Melbourne, its proximity to central Melbourne, excellent public transport networks and accessibility, heritage values and lifestyle opportunities, there is a mandate for Council to identify where projected growth should be directed.

To support this strategic imperative, Council has prepared a built form review, a heritage review, a housing strategy and an economic assessment that highlights where and how population growth could be accommodated in its municipality, what areas should be protected from intensive growth and how the spine of Queens Parade should be managed and developed.

Much, but not all of the Queens Parade Activity Centre, is a designated Neighbourhood Activity Centre.

Starting at the south west corner, Queens Parade typically has a looser grain, coarsened by many lots of comparatively large footprints and broad frontages. This area has less civic importance, being houses, apartments and warehouse/former industrial uses.

Moving north east, the character changes to an area of closer grain, typically smaller development. This area has distinctive architectural features such as original verandahs and chimneys, parapets, roof ridges, frequent doors and trees that create an intricate, human scale. The contrast of the height and form of St Johns Church to its surrounds add significantly to the visual distinctiveness of this area.

The central part of Queens Parade has a more significant civic presence. It consists of a range of publicly accessible retail and community uses, with significant heritage buildings

that contribute to the rich streetscape at street level. This creates a sense that this part of Clifton Hill is very much an urban village, with a strong sense of community and character.

Moving north east, the grain begins to loosen with less consistent character, apart from the art deco influence on the former UK Hotel and Clifton Motors Garage. It has more significant variation in height which is proposed to be where the highest built form can be located.

The different precincts are tied together by Queens Parade, the 60-metre road reserve width which is a significant contributor to character. This road width and the patchy avenue effect caused by varied spacing between trees, means that new development above the existing buildings may, at times, be visually prominent.

Because of the lack of a consistent pattern, variations in existing building heights and relatively little activation of street fronts, both ends of Queens Parade are less sensitive than the core, resulting in a higher capacity for development. The ‘heart’ of the Activity Centre is particularly sensitive with consistent and close grained development that exhibits a distinct human scale. Buildings are currently between one and two, and sometimes three storeys.

The sensitivity of the area to accommodate development varies, with the capacity for development being the reverse of this. The larger lots and less sensitive surroundings at the ‘bookends’ of Queens Parade lend itself to development of appropriately designed taller and larger buildings.

Having noted this, Design and Development Overlay 16 seeks to implement this built form outcome. However, the Panel has found that while supporting the introduction of Design and Development Overlay 16, it considers it to be overly complex and lacking in some clarity.

Once the Amendment completed exhibition, Council sought to introduce several changes that it adopted to take to the Panel as its preferred Amendment. Council was responsive to the 414 submissions made and recommended several changes to the exhibited amendment that it said provided for more enhanced balance, including:

- **amending** design objectives in Clause 1.0, definitions in Clause 2.0, general requirements in Clause 2.2, upper level requirements in 2.4, ground floor design requirements in 2.6, heritage design requirements in Clause 2.8, design requirements for each precinct and decision guidelines in Clause 6.0
- **inserting** street wall requirements in Clause 2.3, corner site requirements in Clause 2.5, vehicular access, car parking and loading access requirements in Clause 2.7, application requirements in Clause 5.0 and the Heritage Review as a reference document
- **introducing** ‘preferred character statements’ for each Precinct
- **reducing** the building height in some Precincts or amending them from being ‘preferred’ to ‘mandatory’.

During the Hearing process, Council proposed several further modifications to components of the Amendment.

While the Panel supports the intent of the Amendment, it recommends several changes to Design and Development Overlay 16, in particular to ensure it is consistent with State policy and guidance documents such as Planning Practice Notes 59 and 60.

The Panel supports the balance of the mandatory and preferred controls sought by Council as it will assist to provide certainty in areas where distinctive heritage fabric warrants greater protection from inappropriate development.

While the changes proposed by Council and submitters, and those recommended by the Panel are on the face of it, significant, the changes are not considered to be transformative. The structure and intent of the Amendment is as generally exhibited, with the detail being tightened to improve its clarity.

The Panel considers that with appropriate design, the larger building scale and height allowed for through Design and Development Overlay 16 at either end of Queens Parade will complement the important heritage narrative of the core activity centre. Coupled with support for the revisions to the Heritage Overlay and the rezoning of land at the corner of Queens Parade and Smith Street, the Queens Parade Activity Centre will provide for significant opportunities to accommodate population and some employment growth in appropriate areas into the future.

Recommendations

Based on the reasons set out in this Report, the Panel recommends:

- 1. Adopt Amendment C231 to the Yarra Planning Scheme as exhibited subject to:**
 - a) The Panel preferred version of Design and Development Overlay Schedule 16 as provided in Appendix E to this report.**
- 2. Undertake further heritage assessment of the existing built form and associated structures located at 390A Queens Parade to establish whether other buildings and associated structures on this property would support or warrant a ‘contributory’ grading within the context of HO330.**
- 3. Correct the spelling of Raines Reserve (from ‘Rains’ to ‘Raines’) and correct the street numbering for the St Johns Church complex in Appendix 8.**

1 Introduction

1.1 The Amendment

Amendment C231 seeks to implement the recommendations of the *Queens Parade Clifton Hill Built Form Review* (Built Form Review) prepared by Hansen Partnership and *Queens Parade Built Form Heritage Analysis and Recommendations* (Heritage Analysis), prepared by GJM by introducing permanent built form controls through Schedule 16 to the Design and Development Overlay (DDO16), as well as rezoning land and updating the Heritage Overlay to land generally known and referred to as the Queens Parade Activity Centre (QPAC).

As exhibited, the specific changes included:

- Introduce DDO16 along Queens Parade
 - These would replace two interim controls currently in place (DDO16 and DDO20)
- Rezone land from Commercial 2 Zone (C2Z) to Commercial 1 Zone (C1Z) and apply the Environmental Audit Overlay (EAO) to land at:
 - 660-668 Smith Street
 - 1-41 Queens Parade
- Introduce a new reference document into Clause 22.02 Development Guidelines for Sites Subject to the Heritage Overlay (HO) (noting no changes to the policy):
 - *Yarra High Streets: Statements of Significance* by GJM Heritage October 2017 (updated November 2017)
- Apply a HO to:
 - 57-87 Queens Parade (HO496)
 - 205-211 Queens Parade (HO504)
 - 472-484 Napier Street (HO498)
 - 26 Queens Parade (full extend of façade) (HO327)
 - All of Raines Reserve (HO330)
- Delete the HO at 390A Queens Parade and the rear of 304, 312 and 316 Queens Parade from HO327 (North Fitzroy Precinct), include them in HO330 (Queens Parade Precinct) and give them a heritage grading
- Update Incorporated Document ‘Appendix 8’ *City of Yarra Review of Heritage Overlay Areas 2007*, revised September 2018 (Appendix 8) to reflect changes to heritage gradings for a number of sites:
 - 662 Smith Street (former Fire Station) from contributory to individually significant
 - 7-11 Queens Parade from contributory to not contributory
 - 137 Queens Parade from contributory to not contributory
 - Rear of 304 Queens Parade from ungraded to not contributory
 - Rear of 312 Queens Parade from ungraded to contributory
 - Rear of 316 Queens Parade from ungraded to not contributory
 - 350 Queens Parade from ungraded to contributory
 - 380 Queens Parade from ungraded to not contributory
 - 390A Queens Parade (two storey building in north-east corner) from ungraded to contributory

- 390A Queens Parade (all other buildings except two storey building in the north-east corner) from ungraded to not contributory
- 402 Queens Parade from contributory to not contributory
- 88 Queens Parade from ungraded to not contributory
- 32, 33 and 34 Jamieson Street from ungraded to not contributory.

The Amendment was prepared by the Yarra City Council (Council) as Planning Authority. The Amendment was exhibited for eight weeks between 1 October to 30 November 2018. It is understood that as part of the consultation process, 2500 letters were sent to owners and occupiers within and adjoining the study area, as well as the normal statutory notification required. A total of 414 submissions were received by Council and all have been referred to the Panel. In its report of 12 March 2019, Council noted most submitters objected to aspects of the Amendment as exhibited.

The Panel was advised that in response to the submissions, Council held a meeting on 28 May 2019 to consider proposed changes to the Amendment, particularly to DDO16 that it would refer to the Panel as its adopted position. It is further understood that submitters were provided with notice of Council's preferred version of the Overlay.

Given this, is it important to note that the Panel is obliged to consider the exhibited Amendment but may consider the Council's preferred version of the Amendment, as well as the preferred version by any other submitter. This was raised at the Directions Hearing and no party or submitters took issue with this position, and it was confirmed on Day 1 of the Hearing in opening. Again, no party took issue with this position.

For the Hearings, the Panel used Council's preferred changes of 28 May 2019 for DDO16 as the starting point for discussions. It then used the 'final' version as the basis upon which it makes its recommendations (see Chapter 1.4(i)).

1.2 Subject land

The Amendment applies to land known as the QPAC shown in five distinct precincts along Queens Parade, Fitzroy North and Clifton Hill, between Alexandra Parade and Hoddle Street.

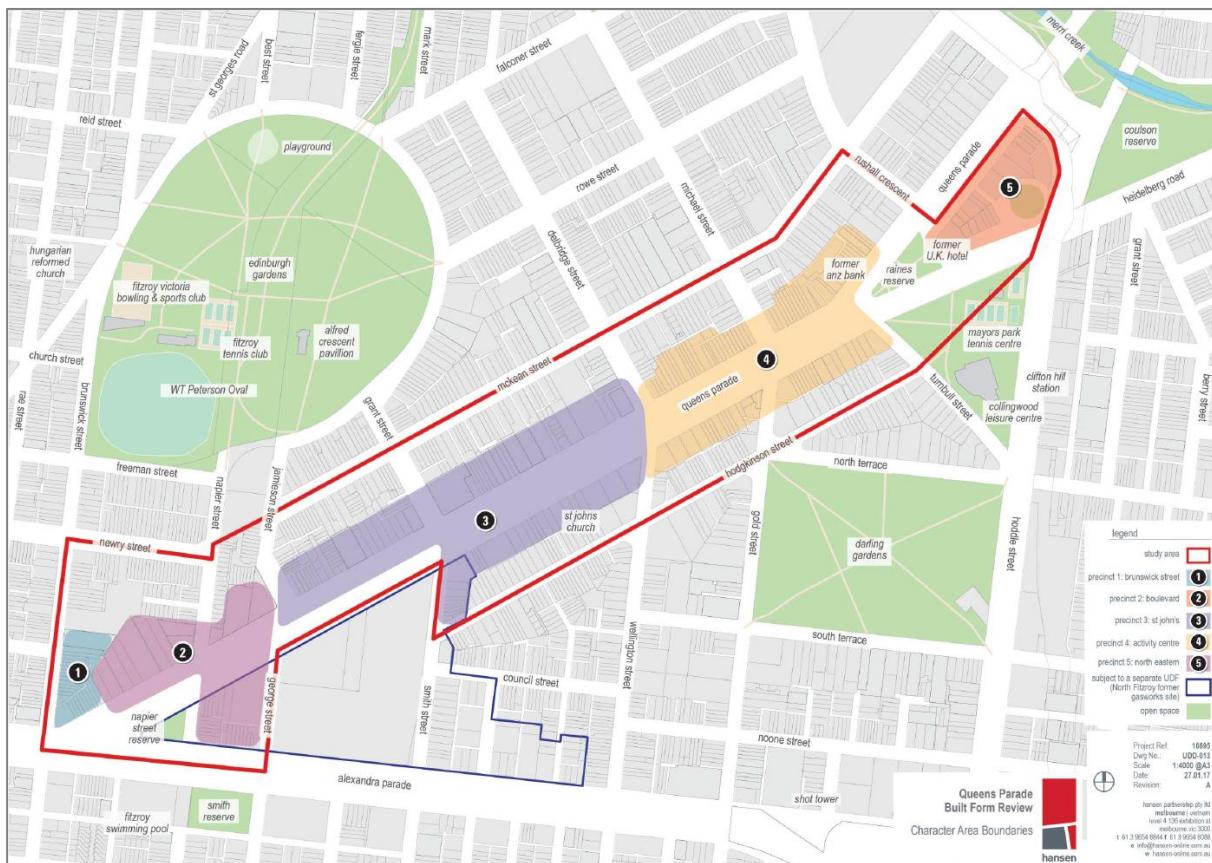
The Precincts were modified for exhibition and were originally based on the precincts identified in the Built Form Review (see Figure 1). The address of each precinct is shown in Table 1, with the revised Precincts shown in Figures 3, 4, 5, 6, and 7.

Table 1: **Precincts**

Precinct	Precinct name	Address
1	Brunswick Street	460 – 498 Brunswick Street
2	Boulevard	26-88 Queens Parade 67-81 Queens Parade 472-484 Napier Street 157-177 Alexandra Parade 537-541 George Street
3	St Johns	1-87 Queens Parade 652-668 Smith Street
4	Activity Centre	89-197 Queens Parade 272-428 Queens Parade
5	North Eastern	199-271 Queens Parade

2-12 Dummett Crescent
501-513 Hoddle Street

Figure 1: Queens Parade Activity Centre Precincts (from Built Form Review, Hansen Partnership)



Source: Figure 15, *Queens Parade, Clifton Hill, Built Form Review* (December 2017)

The QPAC consists of a high street style mixed-use area generally from the intersection of Queens Parade, Alexandra Parade and Brunswick Street through to the intersection of Queens Parade and Hoddle Street. As noted by Ms Ancell:

The north-east extent encompasses the Queens Parade Neighbourhood Activity Centre, the boundaries of which are defined in Clause 21.08-4 of the Yarra Planning Scheme. The Queens Parade Activity Centre also includes strategic development sites (as per Clauses 21.08-4 and 21.08-8), and other clusters of Commercial and Mixed Use zoned land to the south-west.

Ms Ancell further noted that:

The term “Queens Parade Activity Centre” is used in various contexts within the documents relating to the Amendment. It is not a term that is used in the Yarra Planning Scheme, which only refers to the Queens Parade Neighbourhood Activity Centre. The Built Form Review uses the term once to refer to the Neighbourhood Activity Centre, whereas the Council Officer Report from the 28 May 2019 Meeting Agenda uses it to refer to the wider centre as defined by the Built Form Review study area ...

The Panel adopts the QPAC as the wider centre subject to this Amendment, which includes the land known as the Queens Parade Neighbourhood Activity Centre, which is generally focused in Precincts 3, 4 and 5.

Land in the QPAC is included in the C1Z, C2Z and Mixed Use Zone (MUZ), with surrounding areas included in the Neighbourhood Residential Zone (NRZ), General Residential Zone (GRZ), Public Park and Recreation Zone (PPRZ), and Public Use Zone (PUZ). Much of the QPAC is within a HO (see Chapter 2.2).

QPAC generally incorporates a mix of residential, retail, hospitality, commercial, industrial and community (including education, institutions, churches and parks) uses. QPAC is well serviced in terms of public transport. It is within 400 metres of either the No. 11 or 86 tram lines. The eastern part of QPAC is located within 800 metres of the Clifton Hill and Rushall train stations. Queens Parade has a particularly wide road reserve width at 60 metres, with heritage-listed boulevard planting at the south-west end.

1.3 Background

The Council provided a summary of the background to the Amendment in its Part A submission (Document 13), including a table that highlighted the chronology of events (Attachment A, Document 13) that led to this Panel process, which briefly includes:

- November 2016 - Council authorised commencement of urban design and heritage assessment of Queens Parade.
- February 2017 – Built Form Review commenced by Hansen Partnership, and Council sought introduction of an interim DDO through Ministerial Amendment while permanent DDO was advanced.
- March 2017 – Amendment C229 gazetted by Minister for Planning which introduced interim DDO16 to western end of Queens Parade.
- December 2017 – Built Form Review and Heritage Analysis completed. Council noted and endorsed the reports and requested a further interim DDO20 as well as interim heritage protection for sites in Napier Street and Queens Parade.
- January 2018 – Council sought authorisation for Amendment C231.
- July 2018 – Minister for Planning authorised Amendment C231 and Amendment C241 gazetted for balance of Queens Parade.
- September 2018 – Council adopted *Yarra Housing Strategy 2018* (Housing Strategy) and *Yarra Spatial Economic and Employment Strategy 2018* (SEES).
- October/November 2018 – Amendment C231 exhibited.
- December 2018 – Council engaged Ethos Urban to undertake 3D modelling of the five Precincts.
- March 2019 – Council considered 397 submissions to the Amendment.
- May 2019 – Council resolved to endorse officer's recommended changes on C231, including a 'preferred' version of DDO16; adopted its submission to the Panel; requested the Minister for Planning to appoint the Panel; referred all submissions to the Panel (including 17 late or mis-placed submissions), wrote to all landowners directly affected by the preferred DDO16; gave notice of the preferred DDO16 to submitters and landowners.

The Panel process started in July with a Directions Hearing and a 12 day Hearing in August and September 2019.

1.4 Procedural issues

(i) Exhibited, preferred, track change and final version of DDO16

Submissions to the Amendment were primarily about the introduction of DDO16 to the Yarra Planning Scheme. After the close of exhibition, there were 397 submissions received and accounted for (noting some were late and some were not correctly filed by Council), resulting in 414 submissions overall, see Appendix A.

Council resolved at its meeting on 28 May 2019 to change some aspects of DDO16 and to refer it to the Panel as its 'preferred version'. At the Directions Hearing, the Panel acknowledged the position of Council and its preferred version and noted that while it is obliged to consider the Amendment as exhibited, it would use the preferred version as its starting point for discussion at the Hearing. The Panel asked if submitters had issues with that approach, none were forthcoming.

Council provided a summary of changes in its Part A submission (Document 13). On Day 1 of the Hearing, the Panel reiterated the preferred position of Council and again sought commentary if parties or submitters did not accept that position. There was no objection raised to the use of the Council preferred version of DDO16 at the Hearing.

After the close of Hearing Day 11 on Wednesday 28 August 2019, Council was directed to submit its final, Part C version of DDO16 to all parties by 30 August 2019.

This 'tracked change' version (Document 114) was then discussed on a 'without prejudice' basis on the final day of the Hearing (Monday 2 September 2019) to allow further discussion and comments.

The Panel asked Council to 'clean that version up' by accepting all comments it made and providing a further tracked change version that included additional mark ups, correction of errors and the like. This 'final version' was received by the Panel on Wednesday 4 September 2019 (Document 132). It is the 'final version' of DDO16 that the Panel is using as the basis for its recommendations.

(ii) Legal standing of some community group submitters

There were 414 submissions to this Amendment and the input of the local community is acknowledged and appreciated by the Panel. It became clear to the Panel that the community submitters, as individuals and through community or interest groups, were knowledgeable about the Amendment and planning processes in general.

Mr O'Farrell made an extraordinary submission about the status of some community groups who presented at the Hearing¹. His position was questioned by the Panel and responded to by Council.

¹ Paragraphs 51 to 60, Document 107

Mr O'Farrell contended that the number of submissions received was not relevant in the context that "*a very large majority of the population of Clifton Hill were not bothered by the exhibited Amendment*". He acknowledged that most submitters were concerned with Precinct 4. Mr O'Farrell noted that some submitters "... claimed to represent community groups", and cited Queens Parade Heritage Planning and Traders Group (QPHPTG); 3068 Group Inc; and Save Queens Parade. His argument was that the *Planning and Environment Act 1987* (the Act) only provides for a 'person' to make a submission to the Planning Authority and to a Panel, and that submissions may only be made by a person that is a legal person or entity. In paragraph 58 he said: "*It appears that these 'community groups' are not even submitters*".

As his submission on this was made on the penultimate day of the Hearing, the community groups named were not able to respond to this (a request for response was not formally sought, although Council did respond to this aspect of the submission in closing).

The Panel questioned Mr O'Farrell on why he was making these particular submissions and observed to the best of its knowledge, that such a submission had not ever been made to any Panel (as constituted by the Chair) in this way before. He seemed to infer that while Council referred the submissions to the Panel, they may not be legal referrals, but upon further questioning, he did not pursue it further.

In its closing, Council noted (Document 127):

The PE Act provides for any person to make a submission. Person is defined in section 38 of the *Interpretation of Legislation Act 1984* to mean "body politic or corporate as well as an individual". Thus, groups of individuals which have been incorporated under the *Corporations Act 2001* or the *Associations Incorporation Reform Act 2012* are persons for the purposes of the PE Act. To Council's knowledge, the following groups fall within the definition: National Trust of Australia (Victoria), 3068 Group Inc, Royal Historical Society of Victoria Inc, Protect North Fitzroy Inc, Fitzroy Residents' Association Inc and Collingwood Historical Society Inc. In the case of the Queens Parade Heritage, Planning and Traders, Council understands it to be an unincorporated association of groups and individuals which formed in April 2019 to present an organised, unified and coordinated response to the Amendment. The background to the formation of the group is found in document #55 presented by Ms Anne Horrigan Dixon, which she described as presented on her own behalf and on behalf of the group. Document #54 is a statement signed by representatives of the various incorporated associations and individuals which have each lodged submissions to the Amendment, endorsing the proposed changes to the Preferred DDO16 to be presented by the Queens Parade Heritage, Planning and Traders.

The Panel considers this is a procedural matter that should have been raised early in the Hearing to allow interested parties time to respond. Notwithstanding, the Panel observes that the number of submissions is not a telling factor in considering an Amendment, but the fact that many submitters attended the Hearing every day and many spoke to their submission is important. The community submitters raised numerous issues which the Panel has had regard to in this report. Some submitters chose to be represented by a single entity which ensured a cohesive and positive approach to several aspects of the Hearing process, including cross examination of key witnesses. The Panel was assisted by this approach.

The Panel endorses the submission of Council in closing that:

... the community groups ought to be commended rather than criticised for their efforts to present to the Panel in an organised and streamlined fashion.

The Panel considers it would be a very unfortunate situation if multiple submitters who combine for the purposes of presenting coordinated submissions to a planning Panel are not able to do so because they are not legally deemed to be a ‘person’ under the provisions of the Act.

(iii) 3D modelling and updates

The Panel notes the central role that modelling played in informing the evolution of the design metrics as outlined in Council’s Part A submission and acknowledged by its witnesses, Mr Parsons and Mr Gard’ner. The Panel further notes the modelling played a central role in influencing opinions in the community.

During the Hearings and after Mr Parsons had completed his evidence, further modelling was commissioned by Council to explore the impacts on development in Precinct 3 that met the controls outlined in DDO16 at the request of Submitter 199. This was provided on 13 August 2019 (Document 26). Mr O’Farrell argued that the Panel should not accept this modelling as Mr Parsons was not available to be cross examined, and the appropriate weight that should be placed on it could not be definitively established.

Council responded that this modelling contained no changes in the recommendations of Mr Parsons, it merely explained impacts from a different perspective and there was nothing substantive that required a response from Mr Parsons. The Panel accepted this position and noted this modelling, although not without shortcomings (as outlined in Chapter 3.7), assisted in consideration of issues in this Precinct.

(iv) Amendment C267

The Panel notes that post Hearing, Amendment C267 to the Yarra Planning Scheme was gazetted on 17 October 2019. That Amendment alters the planning scheme maps and the Schedule to the HO and updates Clause 72.04 Documents (Appendix 8) incorporated in the Yarra Planning Scheme to ensure the Scheme is consistent with the Victorian Heritage Register (VHR). It is understood that the Amendment did not go through an exhibition or Panel process and has no direct impact on the matter currently before this Panel.

1.5 Summary of issues raised in submissions

The Council summarised the key issues raised by submitters in its Part A submission at paragraph 69 as follows:

- the importance of the Queens Parade activity centre to the local community
- the importance of maintaining heritage fabric
- urban consolidation/accommodating growth
- height of new development
- setbacks
- interface with residential development/amenity concerns
- impacts on the public realm
- variations to the building heights and setbacks recommended by Council’s consultants and their translation into the DDO16

- use of mandatory versus discretionary controls
- laneways, parking and traffic issues
- net community benefit
- community consultation
- the rezoning of certain parcels of land.

Council noted that of the submissions received:

- one submission supports the Amendment and seeks no changes
- two submissions partially support the Amendment subject to proposed changes
- the remainder of submissions object to the Amendment in its exhibited form (many of these submissions seeking changes)
- three submissions requested that the amendment be abandoned or extensively redrafted by Council.

Council referred all submissions to the Panel and from its overall review of the Amendment and the submissions raised, the Panel generally concurs with the Council summary.

1.6 The Panel's approach

The Panel has considered all written submissions made in response to the exhibition of the Amendment, Council's changes as a result of its meeting on 28 May 2019, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has been selective in referring to the relevant or determinative submissions and other material in this Report.

Many of the submitters were concerned with Precinct 4 and in the main, issues raised by those submitters are generally referred to as 'community submitters' in this report. Various parties and community groups are referred to by name, while individual submitters are referred to by submitter number.

All submissions, evidence and other materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Chapter 2: Planning context
- Chapter 3: Threshold issues
- Chapter 4: Rezoning and EAO
- Chapters 5, 6, 7, 8 and 9: DDO16 issues for each Precinct 1 to 5
 - preferred character statements and design requirements
 - building and street wall heights
 - street, upper level, side and rear setbacks
- Chapter 10: Heritage Overlay.

The threshold issues in Chapter 3 include:

- population and economic forecasts
- objectives, general requirements and preferred character statements
- mandatory and discretionary controls
- heritage design requirements
- laneways

- 3D modelling
- Reference Documents.

2 Planning context

2.1 State and local policy

(i) Planning and Environment Act 1987

The Amendment will assist in implementing the relevant State policy objectives set out in section 4 of the Act by:

- providing for the fair, orderly, economic and sustainable use and development of land
- securing a pleasant, efficient and safe work, living and recreational environment for all Victorians and visitors to Victoria
- conserving and enhancing those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value
- facilitating development that achieves the objectives of planning in Victoria and planning objectives set up in planning schemes
- balancing the present and future interests of all Victorians.

(ii) Planning Policy Framework

The relevant aspects of Planning Policy Framework (PPF) are noted as follows:

Clause 11.01-1S (Settlement) seeks to develop sustainable communities and compact urban areas that provide convenient access to jobs, services, infrastructure and community facilities and that new development is concentrated in central locations.

Clause 11.03-1S (Activity centres) seeks to build up activity centres as a focus for high-quality development, activity and living based on each centre's classification, policies for housing intensification, and development of the public transport network.

Clause 15 (Built environment and heritage) seeks to protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

Clause 15.03-1S (Heritage conservation) seeks to ensure the conservation of places of heritage significance and includes strategies to:

Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.

Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.

Retain those elements that contribute to the importance of the heritage place.

Encourage the conservation and restoration of contributory elements of a heritage place.

Ensure an appropriate setting and context for heritage places is maintained or enhanced.

Support adaptive reuse of heritage buildings where their use has become redundant.

Consider whether it is appropriate to require the restoration or reconstruction of a heritage building in a Heritage Overlay that has been unlawfully or unintentionally

demolished in order to retain or interpret the cultural heritage significance of the building, streetscape or area.

Encourage appropriate development that respects places with identified heritage values.

Clause 15.01-1S (Urban design), Clause 15.01-1R (Urban design – Metropolitan Melbourne) promotes quality development and urban design that contributes to safe, healthy, functional and enjoyable urban environments for a distinctive and liveable city.

Clause 15.01-4R (Healthy neighbourhoods – Metropolitan Melbourne) seeks to create a city of 20-minute neighbourhoods, consistent with *Plan Melbourne*.

Clause 15.02-1S (Energy and resource efficiency) encourages resource and energy efficient land use and development by promoting urban consolidation.

Clause 16.01-1S (Integrated housing) promotes a housing market that meets community needs. To achieve this, it encourages an increase in the supply of housing in urban areas in appropriate locations. It encourages the planning system to support delivery of appropriate quality, quantity and type of housing.

Clause 16.01-2S (Location of residential development) encourages the location of new housing in or close to activity centres and urban renewal precincts that offer good access to jobs, services and transport.

Clause 17.01-1S (Economic development) seeks to strengthen and diversify the economy by improving access to jobs closer to where people live.

Clause 17.02-1S (Business) encourages development which meets community needs for retail, entertainment, offices and other commercial services. It seeks to achieve a net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Clause 18.01-2S (Transport system) seeks to develop a comprehensive transport system by planning and regulating new uses or development of land near an existing or proposed transport route.

Clause 18.02-1S (Sustainable personal transport) promotes the use of sustainable personal transport, such as walking and cycling.

Clause 18.02-2S (Public transport) facilitates greater use of public transport and promotes increased development close to high-quality public transport routes.

Clause 18.02-2R (Principal Public Transport Network – Metropolitan Melbourne) seeks to maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at activity centres.

(iii) **Plan Melbourne**

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

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. Initiatives particularly relevant to the Amendment are set out in Table 3.

Table 2: Summary of key Plan Melbourne initiatives

Outcome	Directions	Policies
1. Melbourne is a productive city that attracts investment, supports innovation and creates jobs	1.1 – Create a city structure that strengthens Melbourne's competitiveness for jobs and investment	
	1.2 – Improve access to jobs across Melbourne and closer to where people live	1.2.1 – Support the development of a network of activity centres linked by transport
2. Melbourne provides housing choice in locations close to jobs and services	2.1 – Manage the supply of new housing in the right locations to meet population growth and create a sustainable city	2.1.2 – Facilitate an increased percentage of new housing in established areas to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport
	2.2 – Deliver more housing closer to jobs and public transport	2.2.3 – Support new housing in activity centres and other places that offer good access to jobs, services and public transport
4. Melbourne is a distinctive and liveable city with quality design and amenity	4.1 – Create more great public places across Melbourne	4.1.3 – Strengthen Melbourne's network of boulevards
	4.3 – Achieve and promise design excellence	4.3.1 – Promote urban design excellence in every aspect of the built environment
	4.4 – Respect Melbourne's heritage as we build for the future	4.4.1 – Recognise the value of heritage when managing growth and change
5. Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	5.1 – Create a city of 20-minute neighbourhoods	5.1.1 – Create mixed-use neighbourhoods at varying densities
		5.1.2 – Support a network of vibrant neighbourhood activity centres

(iv) Clause 21

The Amendment supports the Municipal Strategic Statement (MSS) at Clause 21 of the Scheme through the following:

Clause 21.04 (Land use) seeks to accommodate increases in population by directing higher density residential development to Strategic Redevelopment Sites identified in Clause 21.08 and other sites identified through any structure plans or urban design frameworks.

Clause 21.05 (Built form) includes objectives and strategies relating to the protection of heritage places, and the retention or enhancement of Yarra's urban fabric and overall character.

Clause 21.08 (Neighbourhoods) sets out specific implementation of land use and built form strategies for Yarra neighbourhoods including Clifton Hill. It supports development that maintains and strengthens the preferred character of Clifton Hill.

(v) Clause 22

The Amendment supports the following local planning policies (LPP) at Clause 22 of the Scheme though the following:

Clause 22.02 (Development guidelines for sites subject to a Heritage Overlay) provides guidance for the protection and enhancement of the City's identified places of cultural and natural heritage significance. Objectives include, but are not limited to the following:

- To conserve Yarra's natural and cultural heritage.
- To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.
- To retain significant view lines to, and vistas of, heritage places.
- To preserve the scale and pattern of streetscapes in heritage places.
- To encourage the retention of 'individually significant' and 'contributory' heritage places.

Clause 22.03 (Landmarks and tall structures) seeks to maintain the prominence of Yarra's valued landmarks and landmark signs by protecting the views of these features and ensuring the profile and silhouette of new tall structures adds to the interest of Yarra's urban form and skyline. Clause 22.03 specifies that new buildings in the vicinity of St Johns Church should be designed to ensure this landmark remains as a principal built form reference.

Clause 22.07 (Development abutting laneways) applies to development that is accessed from a laneway or has laneway abuttal. In the laneway context, Clause 22.07 seeks to ensure development provides perceptions of safety, acknowledges unique character, allows for access of services, and provides safe pedestrian and vehicular access.

Clause 22.10 (Built form and design policy) applies in circumstances where a development is not in the Heritage Overlay and so would only apply in part of Precinct 2 and Precinct 5 of the Amendment. Clause 22.10 seeks to ensure that development is responsive to context, contributes positively to the streetscape, considers adjoining amenity, and increases the safety and walkability of streets and public spaces. It specifies design objectives for a number of matters including urban form and character, setbacks and building height, street and public space quality, and environmental sustainability.

2.2 Planning scheme provisions

(i) Zones

Land in the QPAC is variously located in the C1Z, C2Z, MUZ and NRZ. The common zone purpose is to implement the PPF, with other key purposes being:

Commercial 1 Zone

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

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

Commercial 2 Zone

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.

Mixed Use Zone

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.

Neighbourhood Residential Zone

To recognise areas of predominantly single and double storey residential development.

To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.

To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

(ii) Overlays

Heritage Overlay

With the exception of part of Precincts 2 and 5, all of the subject land is subject to the HO, the purposes of which are:

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.

To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

Design and Development Overlay 16 and 20 (Interim)

DDO16 applies on an interim basis to land at the west end of Queens Parade and on Brunswick Street. It covers land in Precinct 1 and part of Precinct 2. The design objectives for the Brunswick Street side of DDO16 generally seek to encourage low rise additions or infill behind existing properties while retaining and conserving the heritage values of this low scale Victorian residential area.

The design objectives for the Queens Parade side of DDO16 are more detailed. Here, DDO16 seeks to ensure redevelopment of the site contributes positively to the urban character of Fitzroy North without detracting from the heritage values of Queens Parade including the former Electro Plate Manufacturers' factory. Design requirements relate to building heights, façade heights and design, setbacks, and building separation.

DDO20 applies on an interim basis and includes the remaining precincts along Queens Parade. It includes general design objectives relating to the distinct character, heritage streetscape and varying development opportunities of the area. DDO20 supports new midrise character behind a consistent street wall while ensuring development respects and responds to the heritage buildings and tree-lined character of Queens Parade. It seeks to ensure new buildings provide a suitable transition to low scale residential areas. In addition to general design requirements, DDO20 includes heritage design requirements for sites subject or adjacent to the HO. Specific design requirements for building heights, street wall heights, and setbacks apply to each Precinct.

(iii) Other provisions

Relevant particular provisions include:

- **Clause 52.06 (Car parking)** – seeks to ensure appropriate provision of car parking having regard to several factors including likely demand, sustainable transport alternatives, and effects on the amenity of the locality.
- **Clause 55 (Two or more dwellings on a lot and residential buildings)** – applies to residential development where there is more than one dwelling on a lot in a residential zone. It does not apply to buildings of five or more storeys. Clause 55 applies objectives and standards relating to neighbourhood character, site layout and building massing, amenity impacts and detailed design.
- **Clause 58 (Apartment Developments)** – applies to apartment development of five or more storeys in a residential zone and to all apartment development in the C1Z. Clause 58 operates similarly to Clause 55 and applies objectives and standards relating to urban context, site layout, detailed design and various external and internal amenity considerations.

2.3 Other relevant planning strategies and policies

The Amendment is underpinned by key strategic work which provides guidance for the development of the land, including the Built Form Review and the Heritage Analysis.

Additionally, Council advised the following reports contributed to evolution of the Amendment:

- *Yarra Housing Strategy*, September 2018
- *Yarra Spatial Economic and Employment Strategy*, August 2018
- *Yarra Business and Industrial Land Strategy*, June 2012

Each is briefly summarised further.

(i) *Queens Parade, Clifton Hill Built Form Review, Hansen Partnership*

The Built Form Review provides contextual analysis and identification of the five precincts in the QPAC. It replaces an earlier February 2017 version which informed the interim DDO16 at the west end of Queens Parade that was introduced through Amendment C229. The Built Form Review identifies built form framework principles, preferred character statements, and precinct guidelines with built form objectives for each Precinct. It sets out guidance relating to building heights, street wall heights and setbacks as well as analysis of potential future building forms and their impact on views to significant landmarks and heritage streetscapes.

The Built Form Review informed the basis of the exhibited DDO16 to ensure retention of heritage values while allowing opportunities for new development. It anticipates more intensive development at the western and eastern ends of Queens Parade based on the larger size of properties in this area, existing planning approvals and other opportunities for more intensive development. Less intensive development is expected in the middle portion of Queens Parade (Precincts 3 and 4) owing to the heritage streetscapes, views to key heritage buildings and adjacent residential amenity.

(ii) *Queens Parade Built Form Heritage Analysis and Recommendations, GJM Heritage*

The Heritage Analysis was prepared concurrently with the Built Form Review. The Heritage Analysis analyses the existing heritage values and qualities along Queens Parade and provides recommendations to address identified gaps, inconsistencies or inaccuracies with the current heritage controls. It recommends built form controls for different heritage areas, changes to the HO such as the inclusion of additional properties, changes to gradings and existing citations, and changes to the *Yarra High Streets: Statements of Significance* Reference Document.

The Heritage Analysis considers the built form parameters needed to appropriately manage more intensive development in the context of the area's heritage values and whether mandatory or discretionary controls are appropriate to achieve particular built form parameters.

(iii) *Yarra Housing Strategy, September 2018*

The Housing Strategy provides a housing growth framework for the next 15 years to inform where residential development will either be encouraged or limited in order to meet the changing needs of the municipality. Based on demographic profiling and housing trends, the Housing Strategy identifies the opportunity for 13,000 new dwellings over the next 15 years. The Housing Strategy specifically seeks future growth to respond to the heritage significance within activity centres and identifies opportunities to accommodate this growth in or in the vicinity of the QPAC. It sets out strategic directions for housing growth, including to monitor population and development trends, direct housing growth to appropriate locations, and plan for more housing choice and affordability.

(iv) *Yarra Spatial Economic and Employment Strategy, August 2018*

The SEES provides guidance on managing growth and change in Councils' employment and economic activity. The SEES had regard to the planning context, capacity for employment

growth, and employment trends and drivers. It identifies Yarra's employment land as a strategic resource and sets out a number of strategic directions for the next 10 to 15 years, including to support employment growth in activity centres and identify preferred locations for housing growth. The Housing Strategy notes Yarra's activity centres are appropriate locations for new housing and growth, which supports economic activity by increasing the local population.

(v) Yarra Business and Industrial Land Strategy, June 2012

The *Yarra Business and Industrial Land Strategy* sets out a 10 to 15 year direction for business and industrial areas and provides practical guidance for land use planning. This Strategy uses a precinct typology as the basis for exploring development and investment opportunities with a focus on employment and economic activity.

2.4 Ministerial Directions and Practice Notes

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note (PPN) 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

Direction No 1 Potentially Contaminated Land

In preparing an amendment which would have the effect of allowing (whether or not subject to the grant of a permit) potentially contaminated land to be used for a sensitive use, agriculture or public open space, a planning authority must satisfy itself that the environmental conditions of that land are or will be suitable for that use.

Planning Practice Notes

Three relevant PPN's were the subject of significant discussion, these are PPN01 Applying the Heritage Overlay), PPN59 (The role of mandatory provisions in planning schemes) and PPN60 (Height and setback controls for activity centres).

PPN01 provides guidance on the use and application of the HO. PPN01 states that "*Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay*" should be included in the HO:

Under PPN01, documentation for each identified heritage place or precinct should include a Statement of Significance that clearly establishes the importance of the place assessed against HERCON² heritage criteria. Thresholds are to be based on 'State Significance' and 'Local Significance', as determined and justified by comparative analysis.

PPN59 sets out the criteria that can be used to decide whether mandatory provisions may be appropriate in planning schemes. Issues to consider for mandatory provisions include the

² Common Criteria adopted by the Environment Protection and Heritage Council of the Australian & State/Territory Governments in April 2008 (comprising the model criteria developed at the National Heritage Convention (HERCON) in Canberra, 1998)

strategic basis, suitability to the majority of proposals, whether it provides for the preferred outcome, the likely outcome in the absence of a mandatory control, and administrative burden.

PPN60 provides guidance on the application of height and setback controls for activity centres. It specifies discretionary controls, combined with clear design objectives and decision guidelines as the preferred form of height and setback controls. PPN60 specifies that mandatory controls will only be considered where they are supported by robust and comprehensive strategic work or where exceptional circumstances warrant their introduction. Issues to consider include consistency with State and regional policy, currency of built form analysis and capacity to accommodate growth within the activity centre.

2.5 Findings and recommendation

(i) Findings

The Panel concludes that Amendment C231 to the Yarra Planning Scheme is:

- Supported by and implements relevant sections of the PPF and MPS.
- Consistent with relevant Ministerial Directions and PPNs.
- Well founded and strategically justified, and generally supported by submitters who acknowledged the need to accommodate change but questioned how much change was required, subject to modifications.
- Subject to an extensive iterative process through the review by Council post exhibition and the further recommended changes by Council in response to submissions and evidence at the Hearing, where its ‘final’ version of DDO16 was provided on 3 September 2019.
- Instructive that no submitters or parties in written submission or through evidence and submission at the Hearing indicated that the Amendment was not strategically justified and should be abandoned.

(ii) Recommendation

For the reasons outlined in this report, the primary recommendation of the Panel is that Amendment C231 to the Yarra Planning Scheme should be adopted, subject to the ‘final’ version submitted by Council on 3 September 2019 with further modifications by the Panel as provided in Appendix E.

It is important to note that some of the changes to DDO16 include re-formatting, tidy ups, word changes and other issues not specifically outlined in detail in this report. However, some of the more substantial changes are noted specifically and addressed separately. For these reasons they are listed as individual recommendations in the relevant subject chapter or section, but to avoid confusion, are not consolidated in the recommendations listed in the Executive Summary.

The Panel recommends that:

Adopt Amendment C231 to the Yarra Planning Scheme as exhibited subject to:

- a) **The Panel version of Design and Development Overlay Schedule 16 as provided in Appendix E to this report.**

3 Threshold issues

3.1 Overview and key issues

Both Council and submitters acknowledge that the QPAC is an important activity centre precinct and Neighbourhood Activity Centre (NAC) in Yarra. This is not in dispute.

Strategic planning work to underpin the introduction of permanent built form controls was commenced by Council in 2017 through the Built Form Review and the Heritage Analysis. Both documents are proposed by Council to be included in DDO16 as Reference Documents.

The Panel was advised that due to ongoing development pressures, interim DDOs were introduced into the Yarra Planning Scheme for the broader QPAC in the form of DDO20 for Queens Parade (gazetted 23 August 2018) and DDO16 for Queens Parade West (gazetted 14 March 2019). Both expire on 12 January 2020.

The Built Form Review provided a comprehensive contextual analysis of QPAC and identified five 'Built Form Character Area' Precincts as follows:

- Precinct 1: Brunswick Street
- Precinct 2: Boulevard
- Precinct 3: St Johns
- Precinct 4: Activity Centre
- Precinct 5: North Eastern³

Council advised that:

The Built Form Analysis includes a thorough contextual analysis of policy, heritage values, landscape, subdivision, building heights, recent approvals and the road network; a detailed description of the built form character areas, which forms the basis for delineation into precincts; a series of framework principles and more detailed influences over the built form framework; a determination of levels of anticipated change; articulation of a preferred future character for each precinct; and the derivation of precinct guidelines accompanied by built form objectives and suggested metrics for various built form elements, supported by sectional analysis, selective model views of possible future development envelopes and a collection of case studies with commentary and discussion.

Following further strategic review, these originally identified precincts were modified to be more site specific, taking into account for example, the development of the Gasworks Precinct (which is subject to Development Plan Overlay Schedule 16) and other approvals. This led to exhibition of the Amendment with the five more confined Precincts, shown in Figures 3 to 7.

The Precincts sit within the broader study area, as does the Queens Parade NAC. This NAC (as identified in Figure 3 of the Built Form Review) generally encompasses Precincts 3, 4 and 5. The key retail and business focus in Queens Parade are generally contained in Precinct 4.

³ Figure 15, Built Form Review

Some submitters found the designation of the NAC and the wider QPAC confusing. NAC is a recognised planning term, as is ‘activity centre’. Clause 21.08-4 of the Yarra Planning Scheme identifies the ‘neighbourhood’ of Clifton Hill at Figure 11, as well as a broad brush outline of the NAC, which extends from Smith Street to the railway line. That Clause describes the Queens Parade centre as a mixed use centre with strong convenience retailing with opportunities to create stronger linkages with nearby community facilities. The Panel observes that Clause 21.08-4 is somewhat out of date and the current Amendment has not taken the opportunity to update this Clause in the light of the built form outcomes proposed by this Amendment.

The Built Form Review was complemented by the Housing Strategy, adopted by Council on 4 September 2018 (but not yet included in the Planning Scheme). This Strategy identifies:

- projected population and housing growth
- land and area availability to accommodate projected growth for the next 15 years
- the strategic approach to where and how Yarra guides and directs future growth.

The Strategy recognises broader metropolitan and state planning policy and acknowledges the need to continue to protect the existing high value heritage areas across Yarra.

The Panel has identified several key threshold issues which influence the overall thinking of the Panel in dealing with the specific issues in each of the Precincts. These include:

- population and economic forecasts
- objectives and requirements and preferred character statements
- mandatory and discretionary controls
- heritage provisions in the Design and Development Overlay
- laneways
- 3D modelling
- Reference Documents.

3.2 Population and economic forecasts

The Housing Strategy is a key strategic document relied upon by Council to address ongoing residential demand and economic growth challenges occurring across its activity centres. It forms a key basis for Amendment C231 that seeks (in addition to other matters discussed in this report) to address and manage predicted population and economic growth pressures within the QPAC.

Community consultation formed an important part of the Housing Strategy’s development. The community identified it was important to protect existing high value heritage areas across Yarra, as well as recognising the municipality’s employment land as a significant strategic resource. The Housing Strategy highlighted the planning challenges of managing growth pressures within inner urban areas, while enabling ongoing revitalisation of its key activity centres, noting:

Yarra is an attractive location for residential development. If residential development is not managed and planned it can displace existing economic activity.

The Housing Strategy relied upon Victoria in Future (VIF) to inform its strategic directions. VIF (2016) estimated that an additional 29,412 residents and up to 13,431 dwellings might be accommodated within the City of Yarra between 2016 and 2031. Based upon these

population and housing estimates, the Housing Strategy identified land opportunities within Yarra for over 13,000 new dwellings over the next 15 years. Four key strategic directions were articulated in the Housing Strategy to address residential growth:

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

Updated VIF estimates released in 2019 suggested an increased population of 32,970 and up to 16,540 dwellings might now be expected within Yarra over the same 2016 to 2031 period, a slight increase on 2016 estimates. To accommodate the revised growth, Council estimated it would need to provide an average of 1,100 dwellings per annum over the next 15 years across the municipality.

As an adjunct to the Housing Strategy, Council prepared the SEES. The SEES provided a range of strategic directions and future opportunities for employment land within Yarra over the ensuing 10 to 15 years, noting six strategic directions for identified employment areas:

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

Economic modelling undertaken as part of SEES estimated there would be ongoing demand for the following commercial, retail, institutional and industrial floor space within Yarra over 15 years:

- 389,000 square metres of additional commercial floor space
- 89,000 square metres of additional retail floor space
- 206,000 square metres of additional institutional floor space.

Further, there would be a reduction in demand for an estimated 642,000 square metres of industrial floor space.

Importantly, SEES found that existing floor space capacity across most of Yarra's employment precincts was available to accommodate future economic growth estimates. It recognised Queens Parade, Clifton Hill as a NAC with some capacity for new housing, noting: "*... housing growth supports economic activity by increasing the local population*".

(i) Submissions and evidence

Council relied upon the economic evidence of Mr Spencer in support of this Amendment. His evidence addressed estimated commercial and retail floor space capacity and demand for housing within the QPAC study area. He considered Council's exhibited and preferred version of the DDO16 to calculate the additional commercial floor space and housing opportunities that could be made available as a result of the Amendment was appropriate.

Employment floor space demand

Mr Spencer relied upon demand forecasts for employment floor space provided in the SEES. He noted that the predicted increase in employment floor space across Yarra was relatively modest. His evidence was that the total long term estimated capacity for employment floor space in Yarra was in the order of 4.9 million square metres. He translated this estimate to the QPAC area and suggested that approximately 52,100 square metres of employment space would be made available if the exhibited version of DDO16 was approved. This estimate increased slightly to approximately 53,200 square metres of employment space under the preferred DDO16. Mr Spencer indicated the difference between the two figures largely resulted from changes made to the upper level setback requirements in Precinct 2C under the preferred DDO16.

He estimated that demand for employment growth in the QPAC area would equate to approximately 27,000 square metres of employment space. Based on his metric assessment, the evidence of Mr Spencer concluded:

... there is ample capacity within the Queens Parade Precincts to accommodate the forecast growth in employment to 2031.

Mr Spencer noted the proposed redevelopment of the key strategic site of the former Gasworks located within the broader QPAC, which included a further 4,300 square metres of employment space. He noted a further 6,000 square metres of retail and commercial floor space would be added through the recently approved development at 81-89 Queens Parade.

Population and housing demand

The evidence of Mr Spencer advised that the Housing Strategy provided forecasts of housing supply between 2016 to 2031. He estimated some 14,300 dwellings could be accommodated within the twelve Activity Centres in Yarra. He noted the Housing Strategy estimated a demand supply of dwellings in Queens Parade could be in the order of 1,900 dwellings, with some 1,300 of these dwellings located on the former Gasworks site and at 26-52 Queens Parade. His evidence included a review of these estimates.

Based on the 2019 VIF forecasts, Mr Spencer agreed that up to 16,540 dwellings could be accommodated in Yarra between 2016 and 2031. This equated to an average of 1,100 new dwellings per annum that would be required across Yarra over a 15 year forecast period. Based upon his application of State Government 'Small Area Land' forecasts and an apportionment of this forecast allocated to the QPAC study area, Mr Spencer's evidence was that housing capacity existed for approximately 1,920 dwellings under the exhibited DDO16. However, under the preferred DDO16, Mr Spencer considered this capacity estimate reduced to approximately 1,650 dwellings over the forecast period, largely attributable to the proposed lowering of height limits within Precincts 4 and 5.

In response to questions from submitters, Mr Spencer acknowledged that adequate supply could easily be met by development in other areas, such as the former Gasworks site. A number of submitters (S398 and others) suggested to the Panel that this should be interpreted as there being no need to develop Precinct 4 as all demand could be met elsewhere. In response to a question from Mr Young on behalf of QPHPTG, Mr Spencer confirmed that an amendment that allowed only one extra storey in Precinct 4 would still provide adequate capacity to meet demand in the area.

Mr Spencer acknowledged that development would bring change in QPAC. When the Panel asked Mr Spencer his view on this, he acknowledged this was part of the evolution process of any centre.

Based on his population and housing demand and capacity analysis, Mr Spencer concluded that:

I am satisfied that there is considerable capacity for new dwellings in both Queens Parade (based on either the exhibited or preferred versions of DDO16), and across Yarra's activity centres broadly, when compared to forecast dwelling demand for the next 15 years.

The planning evidence from Ms Ancell supported the conclusions of Mr Spencer on the estimated VIF housing requirements for Yarra generally and QPAC more specifically. Ms Ancell gave evidence that QPAC has a role to play in accommodating predicted growth and associated residential development, particularly as this area includes a designated NAC and is well serviced in terms of infrastructure and public transport services. However, Ms Ancell stressed the increased dwelling estimate from the 2016 or 2019 VIF figures for Yarra demonstrated:

... the importance of ensuring that activity centres do not just cater for medium term population growth at a fixed point in time, but that planning should consider long term trends and seek to make efficient use of urban land and provide some flexibility for activity centres to respond to future changes.

When questioned further on this, Ms Ancell indicated that an additional planning period of up to 30 years could be an appropriate timeframe within which to assess and accommodate estimated housing growth within an inner-city municipality such as Yarra.

In her evidence, Ms Heggen acknowledged the overarching endeavour of the Amendment was to balance activity centre policy with appropriate urban design and heritage policies. She said the Amendment had generally achieved this policy balance.

Various community groups such as QPHPTG and 3068 Group, together with individual submitters (e.g. S39, S280 and S295) expressed views that they preferred a 'status quo' approach (particularly within Precinct 4) to accommodating additional housing opportunities within QPAC.

(ii) Discussion

The Panel is satisfied that the strategic assessment and analysis undertaken by Council and independently reviewed has properly informed preparation of the Amendment in the context of current population and economic forecasts provided by SEES and informed by VIF (2016 and 2019).

The Panel acknowledges the challenges associated with predicting economic and housing growth across Victoria generally, and more specifically within inner-city Melbourne locations such as Yarra. The increased population and housing estimates provided by VIF from a relatively short time period between 2016 to 2019 aptly demonstrates these challenges.

Nevertheless, the Panel accepts the more detailed economic and population analysis and evidence provided by Mr Spencer. The Panel considers this assessment on the likely floor space and housing demand within QPAC has been well articulated and measured against

existing and proposed land use conditions and approved planning permits. The Panel notes Mr Spencer's analysis was tested thoroughly through cross-examination by various submitters and no alternative analysis or conclusions provided on the population and economic forecasts was provided during the Hearing.

The Panel accepts that updated VIF estimates from 2016 to 2019 demonstrate there will be ongoing challenges presented to demographers and planners in accurately predicting population and growth expectations within inner city environments. However, the Panel is not persuaded by submissions that suggest some form of quarantining the QPAC should occur. Estimated growth can be readily accommodated by approved commercial/retail floorspace allocations and approved planning permits elsewhere (such as the former Gasworks redevelopment site).

The Panel considers it is not good planning practice to introduce policy that may stagnate areas from urban renewal opportunities (or not allow for some level of economic invigoration) where that land is commercially zoned land and designated as a NAC. The Panel considers this approach is contrary to State planning policy (Clauses 16.01-1S, 16.01-2, 17.01-1S and 17.02-1S) and relevant provisions of Plan Melbourne (Directions 2.1, 2.2, 2.5, 4.3, 4.4 and 5.3).

The Panel considers the evidence of Ms Ancell for a more precautionary approach is warranted to accommodate growth estimates over a longer time period within the QPAC. This is particularly so where detailed urban design, built form modelling, traffic and heritage analysis has been undertaken that demonstrates new development can be appropriately located and is of a scale that is respectful of the character, streetscape and heritage setting. This approach ensures that any significant changes arising from population and growth estimates can be appropriately accommodated within zoned and designated activity centres, as is the case with the QPAC and this Amendment.

(iii) Findings

The Panel finds that:

- The Amendment is responsive to and consistent with the projected economic growth and population estimates and forecasts provided through the Housing Strategy and SEES and supported by VIF (2016 and 2019).
- Planning for appropriate urban growth and renewal is consistent with State planning policy.

3.3 Objectives, general requirements and preferred character statements

The DDO16 includes general design objectives (Clause 1.0), general requirements (Clause 2.2) and Precinct design requirements (Clause 2.9) which include Precinct specific preferred character statements and design requirements. An issue of concern to the Panel is the complexity and repetitiveness of DDO16, both within itself and with other policies and provisions of the Yarra Planning Scheme. As a general principle, there is no need to repeat a policy or overlay provision for it to have weight. A well written provision carries its own weight and need not be repeated for it to attain more weight. The planning system does not and should not work in that way.

With this in mind, the Panel has reviewed the general and Precinct specific objectives, requirements and preferred character statements to refine and consolidate each.

The Panel discusses the proposed Heritage design requirements separately in Chapter 3.5.

(i) Submissions and evidence

There was little in the way of submissions and evidence about these matters, with much of the discussion at the Hearing emanating from the Panel.

There are five Design objectives at Clause 1.0 which in the main, are appropriate for the QPAC, subject to some minor modifications. Likewise, the General requirements at Clause 2.2. Some of the Precinct specific design requirements are more general and have either been removed or included as General requirements as noted in the Panel preferred version of DDO16 at Appendix E.

In its Part B submission (Document 137) Council noted the preferred character statements were added post exhibition and stated:

An important change in the Preferred DDO16 is the introduction of preferred character statements (PCS) for each precinct. These are intended to guide decision making for each precinct by recognising that each precinct is different, with distinct preferred outcomes.

Mr Helms noted in his evidence (but did not take it further in offering solutions) that:

The inclusion of a preferred character statement can be helpful if it assists in the exercise of discretion by explaining 'what' is envisaged for the precinct in future. They should succinctly describe the preferred development outcome for the precinct (and avoid 'motherhood' statements that could apply anywhere), and should not simply duplicate other parts of DDO16 (e.g., by explaining 'how').

In considering his evidence, Council maintained its position that the preferred character statements could be helpful, but accepted they need to be further refined to clarify intent (Document 124).

Ms Ancell noted in her evidence that the design requirements generally supported the achievement of the preferred character.

(ii) Discussion

A concern of the Panel is the drafting of the Precinct specific preferred character statements and design requirements. It understands the intent of the preferred character statements are the overarching vision for each Precinct and the design requirements are the specific things that need to occur to achieve that vision.

The Panel notes that the preferred character statements and design requirements provide a qualitative expression for predominantly quantitative design requirements. The Panel agrees with Mr Helms that if the preferred character statements are poorly written, they will fail to serve this purpose and could cause confusion or enable a counterproductive outcome. The Panel further agrees with Mr Helms that they are only useful when pitched at a higher level than the mandatory and preferred requirements for each Precinct, but not so high that they are meaningless motherhood statements. The Panel is not sure the Council has achieved this level of clarity.

Council acknowledged this and conceded the importance of ensuring the preferred character statements are carefully constructed to ensure they are helpful. However, the Panel observes that the preferred character statements and design requirements in the final version DDO16 were pitched at mixed levels from the very general to the very detailed, at times replicating controls elsewhere in DDO16. Consequently, they do not provide the appropriate level of guidance required in considering planning permit applications.

The Panel considers that the relationship between the preferred character statements and design requirements is important. The preferred character statements must describe an appropriate outcome and the design requirements must demonstrably assist in achieving this outcome. A difficulty is that the inclusion of the preferred character statements in DDO16 were made post exhibition, almost as an afterthought. Some are poorly written and duplicate the design requirements.

The Panel has sought to consolidate the preferred character statements for each Precinct and ensure the design requirements are appropriately Precinct focused. The Panel provides further commentary and recommendations in each of the Precinct specific chapters.

(iii) Findings and recommendation

The Panel finds that:

- The preferred character statements should express the vision for each Precinct and the Design requirements how to achieve that vision. The Panel generally supports the inclusion of Precinct specific preferred character statements and design requirements but has modified most of these to be more succinct.
- The Precinct specific preferred character statements and design requirements can be valuable in a high level visionary context. Recognising the whole of QPAC, this value comes with the ability to articulate a clear and unambiguous understanding of the broad vision for development in each Precinct.
- Residential amenity and overall streetscape will be appropriately protected and enhanced through the application of relevant design objectives proposed in the final version of DDO16 as it applies throughout the wider QPAC.

The Panel recommends that:

- Adopt the changes to the Objectives and General requirements, and the Precinct specific preferred character statements and Design requirements in accordance with the Panel preferred version of Design and Development Overlay 16 provided in Appendix E.

3.4 Mandatory and discretionary controls

The exhibited and preferred DDO16 use a combination of mandatory and discretionary controls, supported by objectives that seek to address adverse or inappropriate impacts arising from the following built form elements within QPAC:

- building heights
- side and rear setbacks
- upper level setbacks
- street wall heights.

Council's preferred approach to the application of mandatory and discretionary controls to these built form elements is summarised in Appendix D (summary of Council changes to heights and setbacks).

The issue is whether the combined use of mandatory and discretionary controls within the DDO16 is appropriate and justified against PPN59 and PPN60.

PPN59 – *The Role of Mandatory Provisions in Planning Schemes* sets out five criteria to test whether proposed mandatory provisions are appropriate, which include:

- Is the mandatory provision strategically supported?
- Is the mandatory provision appropriate to the majority of proposals?
- Does the mandatory provision provide for the preferred outcome?
- Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?
- Will the mandatory provision reduce administrative costs?

PPN60 – *Heights and Setback Controls for Activity Centres* provides further guidance on how mandatory height or setback controls could be applied. The Practice Note prescribes the application of mandatory height and setback controls where:

- Exceptional circumstances exist; or
- Council has undertaken comprehensive strategic work and is able to demonstrate that mandatory controls are appropriate in the context, and
- They are absolutely necessary to achieve the preferred built form outcomes and it can be demonstrated that exceeding these development parameters would result in unacceptable built form outcomes.

In relation to exceptional circumstances this Practice Note states:

Exceptional circumstances may be identified for individual locations or specific and confined precincts, and might include:

... significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values.

Various Panels have considered the use of mandatory built form controls in the context of PPN59 and PPN60. These include Amendment C220 (Yarra), Amendments C240 and C270 (Melbourne), Amendment C134 (Moreland) and Amendment C108 (Boroondara). Key findings of these Panels generally supported the principle that mandatory controls were an appropriate control tool within a DDO, provided the built form outcomes demonstrated consistency with the relevant guidelines of the practice notes.

(i) Submissions and evidence

In its Part B Submission, Council expressed the view that the Panel for Amendment C220 (Johnston Street), comprehensively addressed the revised PPN60 and the amendments to the criteria for mandatory controls. Council pointed out this Panel concluded a balance of discretionary and mandatory controls was appropriate for Johnston Street on the basis of the strategic work that had been undertaken, including 3D modelling by Ethos Urban, and that the specific controls were considered “*absolutely necessary*.”

For the QPAC, Council highlighted that the mandatory DDO provisions included similar built form elements to those proposed in Amendment C231. This included street wall heights, upper level setbacks and rear interface controls. Council noted that the C220 Panel

supported the mandatory controls for heritage, character and amenity reasons, noting this approach provided certainty to the community. In this context, Council submitted the combined use of mandatory and discretionary controls proposed in the preferred DDO16 was appropriate and consistent with these Panel findings.

Mr Gard'ner provided evidence that findings of recent Panels for Amendment C220 (Yarra) and Amendment C258 (Melbourne) removed the need to justify mandatory controls on the basis of the level of significance or 'significant streetscapes' (as articulated in the Heritage Analysis). His evidence was that all areas within HO330 (whether graded or not) may be appropriate for mandatory street wall height and setback controls, particularly if these were necessary to protect the heritage values of a precinct as a whole.

Ms Ancell gave evidence that the range of mandatory built form controls proposed in DDO16 were justified in light of both PPN59 and PPN60 provisions.

Ms Bell's evidence focused on the proposed mandatory height controls within Precinct 3. She did not support the mandatory application of the overall building height proposed at 18 metres in DDO16 (noting it was exhibited as preferred). Her evidence was that the circumstances that would warrant use of a mandatory height control within Precinct 3, as stipulated under PPN59, had not been satisfied. Based on her assessment of the Heritage Analysis, Ms Bell said Precinct 3 did not appear to be identified as a significant streetscape, nor did it display the heritage character that would warrant the use of mandatory height controls.

However, her evidence was that mandatory street wall heights in Precinct 3 were justified in response to the objective of maintaining views to St Johns Church belfry and spire. Ms Bell considered that mandating the street wall height in this Precinct would be a particularly effective planning outcome in DDO16.

Ms Bell did not support the use of mandatory upper level setbacks in Precinct 3. Although she acknowledged the mandatory control sought to maintain 'clear sky' between St Johns Church belfry and spire, she considered a mandatory control was unnecessary to achieve this objective. Ms Bell supported a discretionary B17 ResCode control for side and rear setbacks as in her view, this provided for appropriate off-site amenity management.

The evidence of Ms Heggen related primarily to Precinct 5B. She contended that the use of mandatory provisions within the preferred DDO16 requiring an overall 18 metre building height and an eight metre setback above the street wall height was justified and had strategic merit. Her evidence was that this would result in a more meaningful built form transition between Precincts 5C and 5A. Ms Heggen noted built form transition from a high point in Precinct 5C to the VHR listed former UK Hotel in Precinct 5A was sound. She said mandatory building height and setbacks for the VHR listed former Clifton Motor Garage was appropriate and in accordance with PPN59 guidelines.

The evidence of Mr Holdsworth and Mr Lewis for QPHPTG primarily focused on Precinct 4. Their evidence supported the use of mandatory height controls, recommending a mandatory three storey (or 12.5 metre height control in the case of Mr Lewis's evidence) be applied within this particular Precinct.

Submissions from community groups and individual submitters generally supported the use of mandatory built form controls, particularly where these controls were placed within a Precinct that displayed a high level of heritage integrity and streetscape character. For example, the QPHPTG (along with various individual submitters) pointed out that as the estimated housing demand for the municipality could be accommodated within existing activity centres, mandatory three storey heights should be applied within Precinct 4. In addition, mandatory building heights could be applied to Precinct 3 where significant views to the St Johns Church belfry and spire required protection (S199) and where new built form needed to respect existing VHR heritage buildings in Precinct 5 (S145 and S295).

(ii) Discussion

The Panel acknowledges the divergence of opinions with regard to the use of mandatory heights and setbacks. However, it considers this divergence centres more on the question of where mandatory and discretionary controls should apply within the Precinct and Precincts, not on the application of mandatory controls per se.

Based on submissions and evidence, the Panel supports the consensus that the principles expressed in PPN59 and PPN60 provide the most appropriate basis upon which to guide the use of these controls within the QPAC. The Panel notes this is a similar view reached by the Panel on Amendment C220, who noted:

DDO15 is underpinned by comprehensive strategic work that meets the requirements of PPN60.

The Panel is satisfied that the controls are appropriate considering the housing needs of Yarra and the economic development of the street.

In a similar context and policy setting, this Panel considers the QPAC demonstrates many of the key characteristics that justifies the application of mandatory height and setback controls for the reasons noted in the PPNs. The Panel notes:

- Council has undertaken comprehensive strategic work to support the application of mandatory controls including (but not limited to) the preparation of the following strategic documents:
 - Housing Strategy (2018)
 - SEES (2018)
 - Built Form Analysis (2017)
 - Heritage Analysis (2017) (including independent peer assessment by Mr Helms)
 - Ethos Urban 3D Modelling (2018/19).
- Exceptional circumstances exist for the application of mandatory controls for development as the QPAC includes a number of significant and contributory heritage places and heritage fabric set within a consistent streetscape form. This includes VHR places such as the recently added former Clifton Hill Motors Garage (205-211 Queens Parade, VHR H2380), the former ANZ Bank (370-374 Queens Parade, VHR H0892) and the former UK Hotel (199 Queens Parade, VHR H0684), together with iconic landmark buildings including St Johns Church, the Queens Parade trees and other heritage places listed as contributory within HO333 that applies to most of the QPAC.

- There is evidence of increasing development pressure within the QPAC (Document 22, planning permits issued, refused, built and proposed in the QPAC Study Area).

The Panel agrees the application of some mandatory controls within the QPAC will result in planning certainty and agreed built form outcomes for Council, the community and the development industry.

(iii) Findings

The Panel finds that:

- Comprehensive strategic work has been undertaken for the Amendment that supports the use of a combination of mandatory and preferred height and setback controls in DDO16.
- The use of a combination of mandatory and preferred built form controls is supported, as this ensures an appropriate development balance can be achieved that balances housing opportunities, economic vitality and renewal of the QPAC.
- The combination of controls to address building heights, side and rear setbacks, upper level setbacks and street wall heights as proposed and/or varied in DDO16 demonstrate consistency with the key principles provided for in PPN59 and PPN60.

3.5 Heritage design requirements

At the Directions Hearing, the Panel sought clarification from Council on the rationale for inclusion of heritage design requirements at Clause 2.8 of DDO16.

(i) Submissions and evidence

Council's Part B Submission provided four key reasons that supported the inclusion of heritage design requirements within DDO16:

- Firstly, it was appropriate for a DDO to include heritage objectives and requirements where the character of the area is strongly tied to its heritage fabric. Council referred to a number of existing DDO's in other Planning Schemes as an example where a combination of urban design and heritage controls have been applied:
 - DDO62: Bourke Hill, Melbourne Planning Scheme
 - DDO8 -1: Clarendon Street, Port Phillip Planning Scheme
 - DDO18: Sydney Road, Moreland Planning Scheme
 - DDO6 and DDO48: (Carlton Area), DDO46, (University East), Melbourne Planning Scheme.
- Secondly, the character of Queens Parade is strongly derived from its heritage buildings and treed boulevard. It considered that existing heritage fabric was an important driver for the preparation of Amendment C231.
- Thirdly, the combined urban design and heritage controls addressed a gap in the Scheme provisions. While acknowledging the existing Scheme had several controls and policies that addressed heritage matters (such as Clauses 43.01 and 22.02), Council noted these policies did not apply to buildings adjacent to but not in a heritage overlay area.

- Fourthly, although Clause 22.02 applied to all buildings in a HO area, the Panel was advised this clause was principally drafted to inform new development, alterations and additions in a residential setting, rather than commercial and industrial buildings that featured prominently in QPAC.

Council explained the process of redrafting the MSS and local policies in accordance with Amendment VC148 was currently underway, with exhibition of a new amendment planned for early 2020. This amendment would see Clause 22.02 redrafted to include more detailed guidelines regarding industrial, commercial and retail premises.

Mr Gard'ner provided evidence on this matter. His view was that the management of heritage fabric for parts of Queens Parade was an appropriate inclusion in DDO16. He noted a similar view was reached by the Panel in Amendment C240 (Melbourne) where it found:

It is not incorrect or inappropriate for the proposed Design and Development Overlay (Schedule 62) to incorporate objectives which recognise and manage the heritage values of the area.

Further, Mr Gard'ner highlighted that:

These objectives can, in my view, include those that augment the decision guidelines provided at clause 43.01-8, the strategies within clause 15.03-1S or the policy provided within clause 22.02 where the existing provisions do not provide satisfactory guidance to inform the redevelopment of heritage places such as those within the Queens Parade Study Area.

In his peer review of DDO16, Mr Helms reached a similar view to Mr Gard'ner. His evidence was that the Council's preferred DDO16 was generally appropriate but required some further text changes to improve its clarity and to reduce repetition.

The evidence of Ms Ancell did not comment specifically on this issue. However, she noted the Amendment was consistent with State and regional planning policies and would enable the strategic role of the QPAC to be realised while protecting its heritage assets.

(ii) Discussion

The Panel acknowledges the importance of the overall heritage setting, significance and importance of maintaining and protecting the identified heritage places and fabric of QPAC. It notes the basis upon which specific heritage content within the Council's preferred DDO16 was included as part of Amendment C231 to specifically reinforce the importance of the existing heritage fabric and setting within QPAC when considering new and infill development proposals.

The Panel notes findings of the Panel in Amendment C240 (Melbourne Planning Scheme) that a combination of urban design and heritage matters were included in that final DDO.

The Panel acknowledges the importance of the heritage fabric and the identified significant and contributory heritage places located throughout the QPAC.

The Panel realises that there was little contention around this matter, with the general thrust of evidence supporting a combined approach of urban design and heritage objectives and requirements within the DDO16. Some submitters, including Mr Gobbo, noted the complexity of planning controls and the need to 'pull back' from trying to include too much in a DDO.

However, the Panel notes important qualifications made in the evidence of both Mr Gard'ner and Mr Helms, that care was required in the final drafting of DDO16, to avoid duplicating or conflicting with existing provisions of the Scheme.

In its review of Clause 2.8 of DDO16, the Panel considers much of the design requirements are written in a generic rather than specific manner. The Panel considers the Design Requirements duplicate existing provisions found within Clause 22.02 (Development Guidelines for Sites Subject to a Heritage Overlay) and within the Decision Guidelines of Clause 43.01-8. It further considers the amended preferred character statements (which were included post exhibition) and the amended design requirements for each Precinct appropriately consider the impact of heritage on development.

The Panel heeds the advice from Council that it is updating its Planning Scheme in line with the integrated PPF structure, and this will include review of Clause 22.02. In this context, the Panel considers the Heritage design requirements at Clause 2.8 should be deleted from DDO16 in its entirety.

(iii) Findings and recommendation

The Panel finds that:

- The Heritage design requirements at Clause 2.8 are not required in Design and Development Overlay 16.

The Panel recommends:

- Delete Clause 2.8 - Heritage design requirements - from Design and Development Overlay 16.

3.6 Laneways

(i) Submissions and evidence

In its Part B submission, Council acknowledged that laneways were an important part of the QPAC heritage fabric, noting that the principal fabric is found fronting Queens Parade. The intensification of use and development along laneways in an activity centre is expected and encouraged through local policy at Clauses 22.07 and 22.10. Council submitted that the mandatory heights, together with the application of the discretionary side and rear setback provisions and design requirements in all Precincts will ensure that the amenity of surrounding residential properties is appropriately addressed.

Council relied on the *Traffic Engineering Review: Queens Parade Activity Centre, Clifton Hill*, prepared by Traffix Group Pty Ltd (August 2019) in support of its overall position in response to how laneways could be utilised. Council called evidence from Ms Dunstan, who advised that she was not involved in preparation of the traffic engineering review.

Ms Dunstan said that despite the varying capacity of laneways in the area, vehicular access should be gained primarily from laneways rather creating new access from the Queens Parade frontage. Ms Dunstan observed that the exhibited controls at Clause 2.2 recognised the limited ability to utilise laneways for vehicular access, with a General design requirement stating: "*Future vehicle access and services must be provided from a rear laneway or side*

street where possible". However, she noted this had been removed from Council's preferred controls and expressed the view that this requirement should be reintroduced into DDO16.

Ms Dunstan considered that many of the laneways within the study area were not particularly suitable for emergency vehicle access due to narrow widths and 'dead-ends', a view shared by many submitters.

Some submissions raised concerns about emergency access (S74), referring to new changes to Metropolitan Fire Brigade (MFB) access guidelines. Council referred the Panel to VCAT decision *Ciullo v Yarra CC [2016] VCAT 912*. Council submitted any decisions to include MFB Guidelines as a planning consideration should be undertaken on a State-wide basis, not within a single defined DDO in a planning scheme. Ms Dunstan supported this position and noted this was a matter best dealt with at time of planning application.

It was her opinion that it was not possible to access some laneways with fire brigade units and that any fires would need to be fought from other street frontages. However, she considered this issue could be addressed by appropriate design responses and was satisfied that this outcome was acceptable. She said that in any event, the MFB (or any other emergency vehicle) would take whatever measures necessary to gain alternative access to an emergency situation which may not necessarily be by laneways.

In relation to concerns about the narrow width of the laneways, Ms Dunstan advised that over time, widening laneways to six metres could occur with incremental development that setback the rear of new development to achieve a continuous or near continuous six metre minimum width. She further advised that narrower laneway sections need not be a major constraint provided they contained occasional wider sections that would function as passing places to accommodate access to new development.

In response to questions from the Panel, Ms Dunstan acknowledged that in areas of narrow lots (such as in Precinct 4), more than one adjacent lot would need to be developed to create a functional passing point. In relation to the alignment of laneways in Precinct 4, Ms Dunstan advised new development should provide or maintain appropriate vehicle splays and setbacks appropriate for vehicle access (with the secondary benefit of functionally widening the laneway over time).

The Panel notes submissions from the community that laneways are used for pedestrian access or short cuts, (S298) and perform an important function for a range of informal activities (S239).

In response to evidence and submissions, Council introduced design requirements in Clause 2.7 of its Part C DDO16 to ensure new development facilitated an increase in capacity. These changes required development to:

- incorporate setbacks and/or corner splays to facilitate on going functionality of the laneway
- ensure no permanent obstructions be placed in the splay or setback.

Council reiterated that a lack of access for fire brigade units or other emergency vehicles in laneways was not a reason to prohibit development along Queens Parade.

(ii) Discussion

The Panel considers limited or restricted new vehicle crossovers along the Queens Parade frontage may result in some positive design outcomes including:

- landscape character including heritage street trees along Queens Parade being protected and maintained
- existing heritage architecture being protected from excessive garage forms or other vehicular hardstand entry points
- pedestrian safety, sense of vitality and street activation being enhanced.

The Panel acknowledges that the use of laneways for vehicular access and as an address for in-fill development creates challenges. The Panel accepts Council's position that emergency vehicle access should not be a reason to prohibit development and can be assessed on a case by case basis. The Panel further considers that the potential impacts on amenity are addressed in the precinct specific provisions of DDO16, noting Clause 2.7 provides an appropriate response to the functional limitations of the laneways.

The Panel supports Ms Dunstan's opinion that the design requirement in the exhibited DDO16 that explicitly required vehicle access from a rear laneway or side street where possible should not have been removed. The Panel considers this requirement is helpful to give appropriate weight to achieving this outcome.

(iii) Findings and recommendation

The Panel finds that:

- Council's approach of using laneways to facilitate vehicular access to development is appropriate within the respective precincts of the QPAC and is consistent with existing local policy objectives in the Scheme.
- Incremental development of lots will create opportunity over time to provide wider places in the laneways that will help facilitate passing bays, thereby increasing the capacity of the laneway generally, even while they have narrower sections.
- Laneways are not needed for emergency access and alternatives exist to ensure safety of residents and visitors to the area.
- DDO16 should emphasise the increased role and function of laneways and the design requirement to maintain service access from laneways in order to facilitate commercial use of the properties fronting Queens Parade should be reinstated.

The Panel recommends:

- That Clause 2.7 reinstate the requirement that "*Future vehicle access and services must be provided from a rear laneway or side street where possible.*"

3.7 3D modelling

(i) Submissions and evidence

In December 2018, Council engaged Ethos Urban to prepare a 3D model of the QPAC to assist with consideration of submissions received in relation to the exhibited DDO16. In its Part A and Part B submissions, Council informed the Panel that this model and subsequent

variations of it played a significant role in determining the proposed departures from the provisions of the exhibited DDO16.

Mr Gard'ner and other witnesses expressed the view that the model was helpful in forming an opinion about appropriate development outcomes. A fly-through and walk-through of the 3D model of both the exhibited and Council's preferred version was subsequently prepared by Ethos Urban.

Following on from discussion at the Directions Hearing, Council provided submitters with an opportunity before the Hearing commenced to view the model. Multiple areas and built form scenarios were modelled in response to requests from the community. Mr Parsons advised the Panel that the 3D modelling was compiled from multiple sources of data and incorporated a number of assumptions in order to make the model a more accurate representation of 'real world' conditions.

Mr Parsons stated that the model excluded trees and street furniture in order to more clearly show the buildings. It also excluded roof features such as chimneys and balustrades. In response to questions from the Panel, Mr Parsons conceded that these features made an important contribution to the character of the area but were unable to be easily modelled.

Mr Parsons acknowledged that in reality, the form of any new development would be quite different to that expressed in the model. In particular, he stated that because of the different site attributes, new development would not appear as a continuous form, as indicated in the model. Instead it would appear as a series of 'pop ups' that would reveal large areas of blank side wall when viewed obliquely from across Queens Parade. In response to a question from Submitter 262, Mr Parsons acknowledged that these blank side walls would need to be handled sensitively to minimise their detrimental impact on the character of the area.

In cross examining Ms Ancell, Mr O'Farrell suggested the modelling presented development in the worst light, with the blank facades and 'garish colours' painting a bleak picture of what the future could be like. Mr Gobbo described the modelling as "*unflattering*".

Several members of the community (3068 Group Inc and others) expressed the view that the modelling helped them form or amend their views at what the appropriate heights should be, particularly in Precincts 3 and 4. Mr Wight for the Royal Historical Society of Victoria suggested that the modelling was helpful in showing oblique views.

(ii) Discussion

The Panel was concerned that the chosen route for the walkthrough of the model presented on Day 1 of the Hearing was prepared from the middle of Queens Parade, facing oncoming traffic. Apart from this being an unrepresentative viewpoint, this had the effect of creating a perspective that minimised the visibility of new development on either side. This happens because from this location, the higher angle of elevation needed to see over retained street frontages obscures more of the development whereas from the opposite footpath a lower angle of elevation means more development is revealed.

The Panel understands the concerns that the model may present new development in an unrealistic context. With existing façade treatments of buildings shown in photographic

detail, the contrast with the blank facades and bright colours of new development makes the new development stand out more dramatically than it would do in reality.

The Panel notes the responsiveness of Council in commissioning a ‘fly through’ and ‘walk through’ of the model in a number of locations and modelling a variety of heights and setbacks in response to community requests. The Panel recognises this modelling has been helpful in allowing many of witnesses and a significant number of submitters to form or evolve their views. The Panel commends Council for preparing the model and making it widely available.

(iii) Findings

The Panel finds that:

- While helpful, there are limits on the reliance that can be placed on 3D modelling as it does not pick up on the finer detail that contributes to the character of an area, particularly in Precinct 4.
- The model might be seen ‘casting new development in a poor light’ because of its use of bright colours and unadorned, blank colours that may overstate the impact of development.
- The excision of roof elements on the skyline fails to capture many of the fine details that give the area much of its character.
- Although this type of 3D modelling is not as helpful as fully designed building(s) in determining the impact of new development, it is helpful to compare the relative impact of different metrics in the controls.

3.8 Reference Documents

The exhibited Amendment proposed to include the *Queens Parade, Clifton Hill Built Form Review*, December 2017 prepared by Hansen Partnership, as a Reference Document to the Yarra Planning Scheme in the schedule to DDO16⁴.

At its meeting on 28 May 2019, Council proposed to add the *Queens Parade Built Form Heritage Analysis and Recommendations*, December 2017 prepared by GJM Heritage, as a Reference Document to DDO16 as one of the changes made to the Amendment as its preferred position.

At the conclusion of the Hearing, Council proposed that two additional reports be included as Reference Documents:

- *3D modelling*, prepared by Ethos Urban – 2019
- *Traffic Engineering Review: Amendment C231 of the Yarra Planning Scheme. Queens Parade Activity Centre, Clifton Hill*, prepared by Traffix Group Pty Ltd – August 2019.

⁴ Planning Practice Note 13 refers to Incorporated and Background Documents. Background Documents is the name now given to Reference Documents, following Amendment VC148. The Panel will continue to use the term Reference Document for this report.

(i) Submissions and evidence

In its Part A submission, Council advised that Amendment C231 was informed by the Built Form Review and the Heritage Analysis. Council noted the other background documents that informed the Amendment (not proposed to be included as Reference Documents) being:

- *Yarra Housing Strategy*, September 2018
- *Yarra Spatial Economic and Employment Strategy*, August 2018
- *Yarra Business and Industrial Land Strategy*, June 2012.

Council acknowledged in its Part B submission that some of the recommendations of the Built Form Review and Heritage Analysis had not been implemented or had changed as a consequence of subsequent modelling by Ethos Urban. It said:

In the circumstances, it is necessary to either update or supplement these documents if they are to be included as reference documents in the Yarra PS or alternatively, not to include them as reference documents.

Council drew the Panel's attention to an issue in Yarra Ranges (Amendment C103) where there was dispute about contents of a proposed Reference Document that was to be amended. The planning authority in that case noted it should not be amended, although the Panel recommended a slight change. Council noted:

By analogy in this case, the Built Form Analysis could be amended to reflect the draft February 2017 version in relation to Precinct 4 and the mandatory height and setback. Alternatively, the documents could be updated or accompanied by a supplementary statement summarising the analysis from the Ethos Urban modelling or recording that the recommendations have been refined by further modelling and are reflected in the built form requirements of the DDO control.

In its Part C submission, Council said:

Consistent with Council's practice with regard to reference documents, as evident for example in Clause 22.02, all documents used as background material to the preparation of DDO16 should be included as reference documents.

Council submits that given the important role that the 3D Modelling of Ethos Urban played in informing the Preferred DDO10 provisions, an additional reference document documenting this modelling should also be a reference document to the DDO16. Council envisages that this document would include screen shots of the Exhibited and Preferred controls for the various precincts and an explanation of how the 3D model was developed.

When Council closed its submission on the final day and provided its final preferred DDO16, it recommended the Traffic Engineering Review be included as a Reference Document, as it considered that report provided important background work in understanding how issues about the laneways might be considered and resolved.

(ii) Discussion

PPN13 provides advice on the role of external documents in the planning scheme in the form of Incorporated and Background (previously Reference) Documents. It notes that planning schemes should be transparent and complete in terms of policies and provisions and "*Studies, strategies, guidelines and policies that inform the planning scheme, guide decision making or affect the operation of the planning scheme should be part of the planning scheme*

in some form". The Practice Note indicates Reference Documents can be used in a number of ways, including as:

... A basis for preparing the Municipal Planning Strategy (MPS), local planning policies or requirements in the planning scheme, or can be mentioned in the planning scheme as a source of useful background information to a policy or control.

Background documents have only a limited role in decision making as they are not part of the planning scheme.

The Panel acknowledges that Reference Documents provide relevant background material for Council and other participants in the planning system to review and use to assist in planning scheme amendments or planning permit applications.

The issue with including these particular documents as Reference Documents is that some of the recommendations from the Built Form Review prepared by Hansen have now been changed by Council as its preferred position. For example, the Built Form Review recommended five storeys for Precinct 4, Council exhibited it as six and then modified it to four. Most community submitters recommended it be four in their original submissions, but then came to the Hearing arguing it should be three as a result of modelling by Ethos Urban. There are a number of other examples of proposed height changes, from discretionary to mandatory in Precinct 3 and Precinct 5, as well as changes in height in Precinct 5C.

The letter of authorisation from the Minister for Planning on 30 July 2018 questioned the strategic justification for departing from some recommendations in the Built Form Review. In its Part A submission, Council responded:

Council submits any departures from the recommendations of the Framework are strategically justified and have been based on rigorous additional built form testing. It relies on the detailed 3D modelling prepared by Ethos Urban and the expert evidence of Mr Parsons, Mr Gard'ner, Mr Helms and Ms Ancell in this regard.

The Panel considers there are too many inconsistencies within the documents proposed to be included as Reference Documents, and that it is not appropriate these be amended. The Built Form Review and the Heritage Analysis do not reconcile with the Council's Part C DDO16, nor the Panel's final version.

In any event, the work of Hansen Partnership as author of the Built Form Review was not tested at the Hearing, as no-one from Hansen Partnership was called to give planning or urban design evidence. The Panel considers it unlikely that Council would have authority to change any aspect of the Built Form Review and Council did not advise whether it sought permission from Hansen Partnership to do so.

The Panel agrees the Built Form Review and the Heritage Analysis provide the catalyst and background for the Amendment, but not to the extent of being included as Reference Documents due to the quite significant changes proposed for DDO16 by Council and the Panel. Likewise, as the 3D Modelling and Traffic Engineering reports were not exhibited, they too, should not be included in DDO16 as Reference Documents.

(iii) Findings and recommendation

The Panel finds that:

- None of the four documents recommended by Council should be included as Reference Documents in the Yarra Planning Scheme.
- The Built Form Review and Heritage Analysis are now out of date as what is proposed by Council is different to what was exhibited in many respects and could cause some confusion if relied upon going forward.
- The late inclusion of the *3D modelling*, (Ethos Urban, 2019) and *Traffic Engineering Review* (Traffix Group Pty Ltd, August 2019) were not exhibited, nor were they part of the Council's preferred position prior to the hearing and should not be included as Reference Documents.

The Panel recommends:

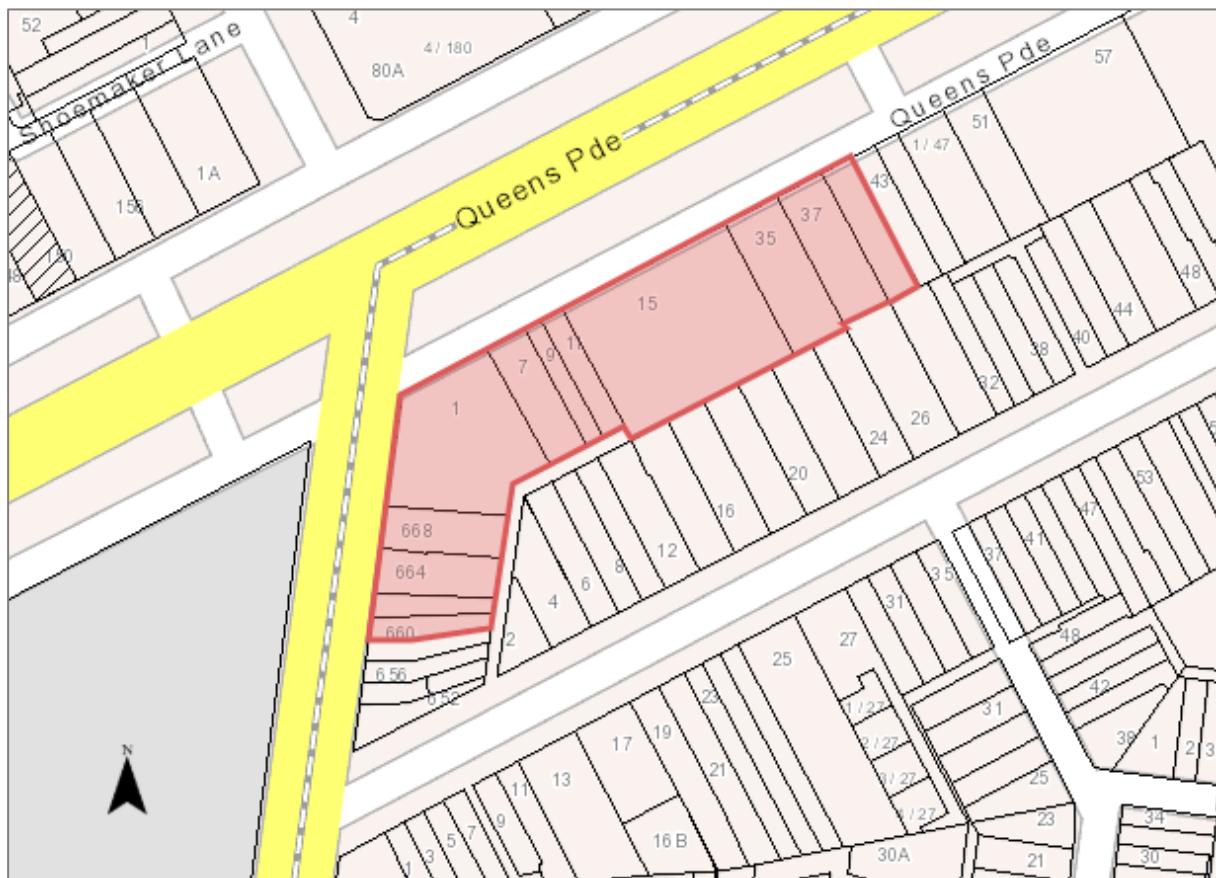
- Delete all Reference Documents from the Schedule to Design and Development Overlay 16 (Appendix E).

4 Rezoning and EAO

4.1 Smith Street and Queens Parade

The Amendment proposes to rezone an area of land located in Precinct 3 at 660 – 668 Smith Street and 1 – 41 Queens Parade from the C2Z to the C1Z and apply the EAO over that parcel of land (Figure 2).

Figure 2: Plan of area to be rezoned and application of EAO in Precinct 3



The key issues to be resolved relate to whether:

- the C1Z is the correct zone
- the rationale for applying the EAO.

(i) Submissions and evidence

Council advised in its Part B submission that the proposed rezoning of land:

... is consistent with a neighbourhood activity centre and will facilitate the renewal of this area of Queens Parade and Smith Street. The rezoning is consistent with the SEES, retains the historic active frontages and provides scope for commercial and retail uses at ground level with residential development above.

The Panel queried the choice of the C1Z and Council advised:

Application of an alternative zone such as the Mixed Use zone could result in the totality of the site used for residential purposes, losing the scope for activity at ground

level. Commercial activity at ground level is a better match for the Gasworks site which presently proposes live/work units on the Smith Street frontage.

Council supported the application of the EAO on the same land as it is appropriate to ensure former industrial uses could be assessed for contamination prior to use for residential purposes. Council noted that application of the EAO is consistent with Ministerial Direction No 1. It would enable Council to satisfy itself that the environmental conditions of the former C2Z land will be suitable for sensitive uses. Council noted that the EAO was applied to C2Z land proposed for rezoning to the C1Z in Johnston Street as part of Amendment C220. Council advised it sought advice from the EPA in relation to the suitability of the use of the overlay as part of the Amendment, and advised the EPA supported its application.

In closing, Council affirmed there was no objection by any submitter to the rezoning of Precincts 3A and 3B to C1Z. Further:

It is also noted that all submitters and Ms Bell called on behalf of Submitter #398, consider that a DDO is appropriate for the rezoned land to guide its future redevelopment.

Neither Mr O'Farrell nor submitters 199 and 224, all of whom presented at the Hearing, made adverse comment about the rezoning aspect of the Amendment.

Likewise, there was no objection to the introduction of an EAO over the land.

(ii) Discussion

For the reasons expressed by Council and with no objections provided by submitters, the Panel accepts that the C1Z and the application of the EAO can be supported.

The C1Z provides for retail and commercial uses at the ground floor, which is important for maintaining ground floor activation in this centre. Residential and other uses can be provided for predominantly at upper levels. Application of the EAO will ensure that any potential contaminant relating to former uses will be properly accounted for.

(iii) Findings

The Panel finds that:

- Rezoning of land at 660 – 668 Smith Street and 1 – 41 Queens Parade from the Commercial 2 Zone to the Commercial 1 Zone is supported.
- Application of the Environmental Audit Overlay over land at 660 – 668 Smith Street and 1 – 41 Queens Parade is supported.

4.2 Gold Street

(i) Submissions and evidence

Council received and considered a request from Submitter 67 that its land at 245 Gold Street (in Precinct 4) be rezoned from C1Z to the NRZ. Council supported that position and included the rezoning of the land as part of its adopted version of the Amendment.⁵

The Panel questioned this position early in the Hearing and noted its concern about that recommendation. Council responded in its Part B stating:

In relation to the suggested re-zoning of 245 Gold Street to the NRZ, this change was included in the officer's table of changes in response to submissions and this table was the subject of Council's resolution of 28 May 2019. Nonetheless, this rezoning is not part of the Amendment and has not been exhibited, and so cannot be entertained by the Panel. Council is willing to progress such a rezoning at a later time.

Submitter 95 spoke to this matter at the Hearing on behalf of the landholder and noted this request has been raised with Council since 2010. The submitter observed that the potential rezoning of the property at 245 Gold Street has been the subject of numerous requests, including as part of the reformed residential zones review in 2013 and follow up work in 2014 (Document 91).

The final position of Council was affirmed to not progress the rezoning in its Part C submission where it noted:

Council has informed the Panel that it does not pursue this re-zoning as part of this Amendment as the re-zoning was not exhibited. Submitter #67 has been made aware of Council's position regarding the re-zoning and has made submissions to the Panel in response.

(ii) Discussion and findings

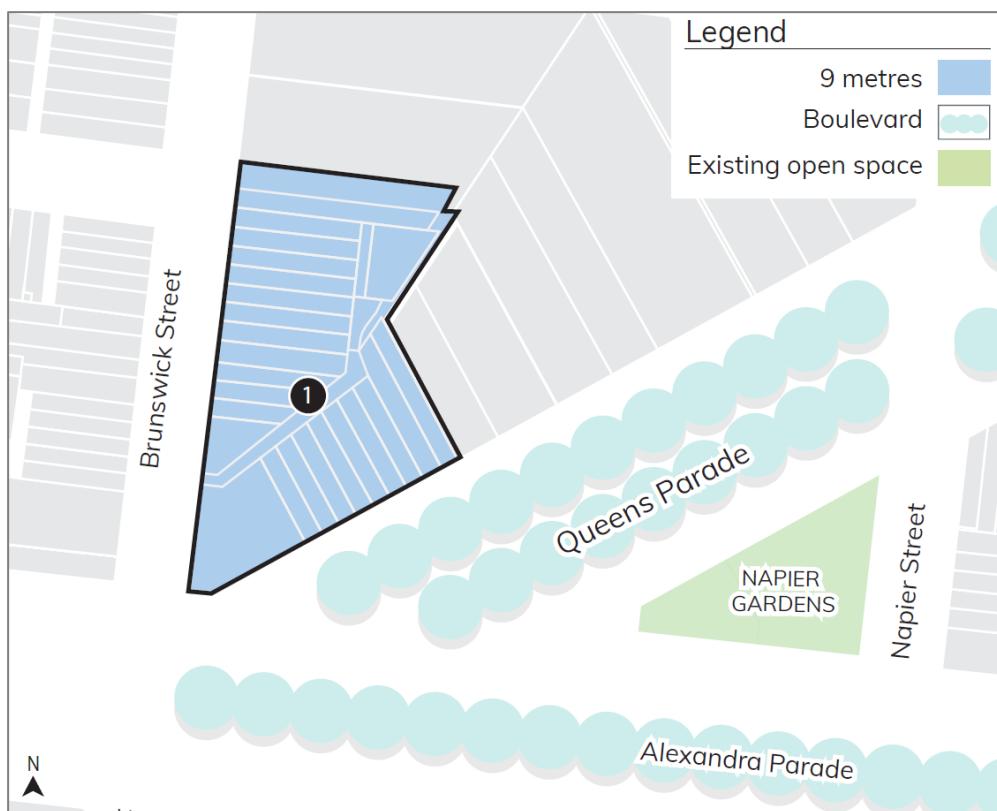
The Panel observes that this matter appears to have been agitated with Council for nearly 10 years by the submitter. However, the Panel is not able to, nor has not turned its mind to the merits of rezoning the land at 245 Gold Street. It agrees with the final Council position that the proposed rezoning is not able to be pursued as part of this Panel process.

⁵ Table to paragraph 76 in Part A submission

5 Precinct 1

Precinct 1 is an area of predominantly single storey terraced houses on narrow lots that turns the corner of Queens Parade and Brunswick Street (Figure 3). The street frontages are generally setback from the boundary with small front gardens that help frame the buildings when viewed from the abutting public realm. The apex of the corner is distinguished by the larger mass, height, distinctive architecture and zero setback of 460 Brunswick Street. The edge of the Precinct on Queens Parade is defined by a change of both building size and grain, moving to an area of larger, wider lots in Precinct 2.

Figure 3: Map of Precinct 1



5.1 Preferred character and design requirements

(i) Submissions and evidence

No evidence or further submissions were received that suggested changes to the preferred character and design requirements in this Precinct.

(ii) Discussion

The Panel notes that the character aspirations of DDO16 for Precinct 1 were not contested.

The preferred character statement requires development to ‘not diminish’ the appreciation of the heritage building at 460 Brunswick Street. The Panel considers that this could frame the impact of new development in negative terms and this does not reflect the positive contribution a high standard of contemporary development can make to protecting and

enhancing the character of the area. The Panel has amended the preferred character statement in this regard.

(iii) Findings

The Panel finds that:

- The preferred character statement generally describes an outcome that is appropriate and can be achieved by the metrics and design requirements in DDO16.
- In addition to minor changes indicated in Chapter 3.3 to improve clarity and minimise duplication, the preferred character statement and design requirements should be amended to:
 - Express the aspiration that development ‘enhances’ the appreciation of the heritage building at 460 Brunswick Street rather than ‘do not diminish’ it.

5.2 Building and street wall height

(i) Submissions and evidence

The exhibited, preferred and final position of Council with regard to building and street wall heights for Precinct 1 is shown in Table 3.

Table 3: Summary of Council position for height in Precinct 1

Height	Exhibited version	Preferred version	Final version
Building	460 Brunswick Street and Lot 1: 9m (mandatory) Elsewhere: 9m	No change	No change
Street wall	460 Brunswick Street and adjoining development: match tallest parapet (mandatory) Elsewhere: retain existing (mandatory)	460 Brunswick Street: match tallest parapet (mandatory) Elsewhere: retain existing (mandatory)	No change

The key issue to be resolved in relation to heights in Precinct 1 is:

- maintaining the distinctive heritage value of the building at 460 Brunswick Street.

In its Part B submission, Council noted this Precinct is to accommodate ‘low rise’ development. Its submission stated a mandatory maximum height of nine metres is appropriate at 460 Brunswick Street given its heritage significance. Lot 1 was considered to justify a nine metre mandatory maximum given the sensitivity of the surrounding residential properties subject to the HO, and VCAT determinations to that effect⁶.

⁶ Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2017] VCAT 1745 and Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2018] VCAT 1047

In relation to street wall height, Council's position was to benchmark these against the existing street wall heights, differentiating the generally taller street walls of 460 Brunswick Street from the lower development elsewhere.

Mr Parsons supported the mandatory building wall heights and mix of mandatory and discretionary building heights, noting the preferred nine metre building height for lots other than 460 Brunswick Street allowed for minor variation of infill building works. Mr Gard'ner had a different opinion. He opined that building heights should be mandated at nine metres and that other than the corner site street wall, heights should be preferred controls.

In its commentary on the final DDO16 (Document 114), Council maintained its position except to acknowledge that the preferred metric for street wall heights "*to match the parapet or eaves height of taller adjacent heritage building*" on lots other than 460 Brunswick Street served no purpose. Council conceded the same lots were covered by a mandatory control to the same effect and it deleted the preferred metric.

(ii) Discussion

The Panel considers Precinct 1 forms a coherent composition of built form that emphasises the higher profile of the corner with a distinct building that varies from its surroundings, while remaining complementary to it. This distinction is marked both by street wall height and setback. Future development should be complementary to the primacy of 460 Brunswick Street.

The Panel supports Councils' position in relation to street wall heights in that they appropriately maintain the distinction between the corner building and its surroundings. The Panel supports the nine-metre mandatory building height for the building at 460 Brunswick Street and the preferred nine metres elsewhere. The Panel considers this correctly protects the contribution of the corner building while allowing a degree of flexibility elsewhere. The Panel agrees with Council that Lot 1 occupies a sensitive location largely surrounded by heritage residences and notes the scrutiny this site has already received at VCAT in determining an appropriate height.

(iii) Findings

The Panel finds that:

- The building and street wall heights for Precinct 1 should be as drafted and included in Appendix E.

5.3 Street, upper level and side and rear boundary setback

(i) Submissions and evidence

The exhibited, preferred and final position of Council with regard to street, upper level and rear boundary setbacks for Precinct 1 is included as Appendix D.

The key issues to be resolved in relation to setbacks in Precinct 1 is:

- Whether the street and upper level setbacks should be mandatory or preferred
- Whether a zero metre street level setback is appropriate.

Council's position as outlined in the preferred DDO16 was that all development fronting Queens Parade and Brunswick Street be built to the street (zero setback) with some discretion for lots other than 460 Brunswick Street. Above ground setbacks distinguish the corner building from other lots in that its heritage values are considered to justify a mandatory control. For the side and rear boundaries, Council maintained a consistent position of relying on ResCode B17.

Mr Parsons supported the adoption of a consistent six metre mandatory upper level setback and the use of ResCode B17 for determining side and rear setbacks, given the low scale residential use in this Precinct.

Mr Gard'ner did not support a mandatory zero street setback in this Precinct. He suggested that this should be a preferred control for 460 Brunswick Street and the adjoining vacant lot, as it may be more appropriate to provide new built form that is recessed to provide a greater degree of distinction between heritage and new fabric. Mr Gard'ner suggested the zero setback for other lots was also inappropriate, and instead the setback should be based on the setback of the adjacent heritage building.

Mr Gard'ner further opined that the upper level setbacks for additional levels of development be consistent and mandatory across the Precinct to ensure development was adequately recessive.

In its Part C submission, Council agreed with Mr Gard'ner that the street setbacks should not be less than the setback of the adjacent heritage building and proposed a preferred requirement for development to this effect. Council agreed with Mr Gard'ner and Mr Parsons that a consistent six metre upper level setback was appropriate and with Mr Gard'ner that it should be mandatory.

(ii) Discussion

This Precinct owes a significant part of its character to the distinction between the building on the corner at 460 Brunswick Street and the surrounding buildings on either side. This distinction is marked both by building wall height and street setback.

The Panel consider that development should seek to maintain this distinction and it supports the revised street setbacks and upper level setbacks proposed by Council to ensure 460 Brunswick Street retains its prominence.

(iii) Findings

The Panel finds that:

- The street, upper level and side and rear boundary setback for Precinct 1 should be as drafted and as included in Appendix E.

6 Precinct 2

Precinct 2 comprises two discrete areas on either side of Queens Parade (Figure 4).

Precinct 2A to the north of Queens Parade comprises former industrial premises that present a continuous and two storey art deco frontage to Queens Parade. On other frontages, it abuts laneways and the rear of residential properties.

Precincts 2B and 2C to the south of Queens Parade occupy the block defined by Napier Street, Alexandra Parade and George Street. Precinct 2C comprises a variety of lot sizes and buildings of diverse uses, architectural styles, sizes and setbacks. Although existing heights are in the range of one to two storeys, the different roof forms give the skyline an intricate and diverse character. By contrast Precinct 2B is more consistent and comprises the terraced houses of Elizabeth Terrace. These are two storeys in height and overlook Napier Gardens. The block containing 2B and 2C addresses Napier Gardens to the west and the Gasworks redevelopment site to the East. The whole of the Precinct is linked by the significant trees of the Queens Parade Boulevard.

Figure 4: Map of Precinct 2



6.1 Preferred character and design requirements

(i) Submissions and evidence

Council's design objective for this Precinct is to achieve new mid-rise character behind a consistent street wall. Council considered this Precinct to be a preferred location for housing and employment growth in the QPAC. It is seen as complementing the higher

development in Precinct 5B and 5C at the northern end of Queens Parade to create ‘bookends’ to the overall activity centre. Council sought to ensure the tree lined boulevard remained the defining character of the Precinct and it emphasised the contribution heritage buildings make to that character.

Mr Parsons agreed this Precinct was an appropriate location for housing and employment growth when guided by proposed interface and shadowing controls.

Ms Ancell agreed that the design requirements and Table 2 of the preferred DDO16 would deliver the outcomes sought in the preferred character statement.

Submitter 281 noted that in Precinct 2A, the interim DDO16 included a Design objective in Clause 2.9.2 “*to retain, enhance and incorporate the existing heritage facade into the redevelopment of the site and to create a consistent parapet height along the streetscape*”. This objective was not included in the preferred DDO16. That submitter expressed the view that given this design requirement was explored and relied upon in a VCAT decision⁷ – its removal could encourage the landowner to abandon the approved application and apply to vary the permit and seek increased yield. Submitter 281 further suggested another design requirement could be included, this being to “*encourage development above the street wall to be designed as a series of separate development parts with building separation to enable views of the sky*”.

Council supported that submission and recommended the inclusion of those design requirements in its final version of DDO16.

(ii) Discussion

The Panel agrees that the larger lot sizes and limited impacts on surrounding land owners means this Precinct has the capacity to accommodate higher forms of residential development than other, more sensitive precincts. The Panel notes the development of the adjoining Gasworks site will create an area of larger scale development adjacent to the Precinct. The Panel considers it appropriate that development in Precinct 2C should provide a transition between the Gasworks site and the lower scale heritage buildings in Precinct 2B.

The Panel notes that the preferred character statement includes an aspiration that the scale of development in this Precinct should ‘bookend’ the QPAC and complement the higher development in Precincts 5A and 5B. The Panel agrees that creating a sense of threshold in this Precinct is an appropriate contribution to the wider activity centre. However, as worded in the Part C DDO16, this statement suggests this is achieved principally through building heights.

The Panel is of the view that achieving a sense of ‘arriving at’ and ‘moving through’ an attractive and diverse activity centre requires the application of other design techniques that enhance the experience of the streetscape. Specifically, the Panel considers that the preferred character statement should acknowledge the contribution this Precinct can make

⁷ Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2018] VCAT1047

to creating a safe and attractive sense of arrival into the QPAC. The Panel further considers the design requirements should ensure development orientates active frontages and provides passive surveillance to the surrounding streets. The Panel notes that this may assist in achieving Council's walkability aspirations set out in *Encouraging and Increasing Walking Strategy*, 2005.

The Panel does not consider that the design requirement in the final DDO16 that requires projections above the street wall to "be not dominant in the skyline" when viewed from specified public spaces is of value. 'Not dominating' is a difficult requirement to interpret and quantify when considering views of buildings at distance.

The Panel supports the inclusion of design requirements relating to existing heritage facades and encouraging development above street walls.

(iii) Findings

The Panel finds that:

- The preferred character statement generally describes an outcome that is appropriate and can be achieved by the metrics and design requirements in DDO16.
- In addition to minor changes indicated in Chapter 3.3 to improve clarity and minimise duplication, the preferred character statement should be amended to:
 - Express the aspirations that development delivers a sense of arrival at the edge of the QPAC and offers a distinctive and attractive character that complements other parts of the activity centre.
 - Express the aspiration that development contributes to delivering a safe, attractive pedestrian environment within and through the Precinct.
 - Explicitly recognise the importance of not just of the heritage elements but their characteristic rhythm and patterns.
 - Express the aspirations that development addresses Queens Parade and responds to the sensitivity of the residential properties to the north and west abutting Precinct 2A.
 - Explicitly recognise the importance of new development in Precincts 2B and 2C addressing Napier Street, Queens Parade and Smith Street.
- The design requirements should be amended to ensure development:
 - Provides an appropriate transition in scale from the heritage buildings in Precinct 2B, through the new built form in Precinct 2C and the higher development of the Gasworks site.
 - Minimises visual bulk and provide adequate separation alongside and rear boundaries in Precinct 2A.
 - Orientates active frontages and provide passive surveillance to the surrounding streets.
 - Remove bullet the point relating to projections above the street are not dominant on the skyline when viewed from nominated locations.

6.2 Building and street wall height

(i) Submissions and evidence

The exhibited, preferred and final position of Council with regard to building and street wall heights for Precinct 2 is shown as Table 4.

Table 4: Summary of Council position for height in Precinct 2

Height	Sub precinct	Exhibited version	Preferred version	Final version
Building	2A	31m (mandatory)	No change	No change
	2B (formerly 2D)	18m	No change	No change
	2C	28m	No change	No change
Street wall		Retain height of existing heritage façade (mandatory)	No change	No change
	2A	Where no heritage façade: 10m (mandatory)		
2B (formerly 2D)		Retain existing parapet (mandatory)	Napier Street- retain existing parapet height (mandatory)	No change
		Queens Parade, George Street and Alexandra Parade: 18m	No change	No change
		Napier Street – not exceed adjoining parapet		Napier Street: 10m (mandatory)
2C				

The key issues to be resolved in relation to heights in Precinct 2 are:

- maintaining the distinctive heritage values of the buildings at Elizabeth Terrace
- responding to the scale of development on the adjacent Gasworks site and adjoining residential properties.

Council sought to ensure the proposed building and street wall heights provide a transition from the interface with the Gasworks development with its 10 storey height to the north east and the domestic scaled two storey ‘Elizabeth Terraces’ on Napier Street and Napier Gardens to the south west. Street wall heights were determined to respond to the heights of immediately surrounding heritage buildings. Elsewhere, they seek to allow a greater street wall height to maximise the potential of these relatively unconstrained areas.

Council’s preferred DDO16 proposed mandatory controls for building height in Precinct 2A and street wall heights in Precinct 2B. In Precinct 2A, the mandatory maximum height reflected a VCAT determination⁸ that a 31 metre height was appropriate for the site. Council considered that development above this height would impact on the Queens Parade boulevard trees and interfere with long range views from Edinburgh Gardens. In Precinct

⁸ *Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2017] VCAT 1745 and Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2018] VCAT 1047*

2B, it considered that the Elizabeth Terraces warranted a sensitive streetscape response by the street wall of adjoining development.

The proposed mandatory application of building heights in Precinct 2A was supported by Mr Parsons and Mr Helms. Mr Parsons observed that the preferred version of DDO16 made no modification to Precinct 2A controls. He suggested this was reasonable given the scrutiny they had been subject to in the application of interim controls and through the VCAT proceeding. He added that DDO16 provided sufficient protection for amenity and character, bearing in mind the site's commercial use.

Mr Gard'ner supported the discretionary matching of proposed street wall height with the existing heritage façade. In relation to Precinct 2B, Ms Ancell and Mr Parsons noted the Council's preferred 18 metre maximum building height would provide sufficient protection for amenity and character given the sites is located in the Commercial 2 Zone. Mr Parsons believed the overall 18 metre height should be mandatory, given its relationship to a heritage frontage half that height, and due to potential overshadowing of Napier Gardens. Mr Gard'ner suggested an appropriate level of concealment required a maximum building height of 14 metres (four storeys).

In relation to Precinct 2C, Ms Ancell gave evidence that the preferred 28 metre maximum height could facilitate intensification in one of the few low-constraint precincts in the QPAC where there are no heritage overlays or directly abutting residentially zoned land.

In relation to street wall heights, Mr Gard'ner and Mr Parsons supported the mandatory 10 metre street wall height to Napier Street. Mr Parsons observed that this control had been changed from an exhibited "*match adjoining heritage*", to a mandatory 10 metre maximum in the Council preferred version. He agreed this metric should achieve a consistent street wall relationship and limit overshadowing, and advised the Panel that discretion is not appropriate here. In relation to the other street wall heights in this Precinct, Mr Gard'ner stated his support for an 18 metre street wall as it closely matched the Development Plan Overlay preferred six storey street wall across George Street on the Gasworks site.

Mr Helms noted the potential conflict between the mandatory street wall height of 10 metres on Napier Street and the preferred requirement of 18 metres on Queens Parade. Mr Helms and Ms Ancell suggested this required the review of the Clause 2.5 'Corner site requirements'. Mr Helms further questioned the need for a mandatory control to secure a consistent street wall relationship and to limit overshadowing.

For Precinct 2A, Submitter 68 suggested a maximum height of 18 metres, while in Precinct 2B, a number of submitters including S281, QPHPTG and Fitzroy Residents Association supported 14 metres.

In Precinct 2C, Mr Naughton objected to the 28 metre height, saying this was a departure from the Built Form Review that recommended 28.5 metres. He stated that Council had accepted that an eight storey development was appropriate in this Precinct but the proposed control of 28 metres was inadequate to accommodate a building of this height. He further noted that a planning permit had been issued for a building at 34 metres on a site in Precinct 2C, and therefore the height across the whole Precinct should be increased to reflect that approved height.

Several submitters supported the reduction of maximum heights. Submitter 209 asserted that development should not exceed three storeys to retain views to heritage buildings, the character of the low-rise stopping strip and transition to residential areas. Submitter 156 suggested the maximum building height should be five storeys, while Submitters 145, 281 and others suggested all height controls should be mandatory.

Council responded to the evidence and submissions in its Part C submission and maintained its position in relation to building heights. In relation to Precinct 2A, Council rejected Mr Gard'ners' suggestion that the street wall height could be discretionary. In relation to Precinct 2C, Council considered the designated maximum height of 28 metres in Precinct 2C reflected an appropriate relationship between the Gasworks site at a maximum of 10 storeys (or approximately 31 metres) and the two-storey heritage Elizabeth Terraces in Precinct 2B.

In relation to Precinct 2C, Council noted that although a permit had been issued for a building at 34 metres, this may not be appropriate (or preferred) across the whole of that Precinct, particularly at the direct interface with Precinct 2B.

In relation to the concern raised about the differing requirements for wall heights on either side of the Napier Street and Queens Parade corner, Council submitted that the transition between the street wall heights should not occur on Napier Street but rather on Queens Parade. In order to facilitate this approach, Council amended Clause 2.5 of DDO16 to exclude the corner of Napier Street and Queens Parade.

(ii) Discussion

The Panel considers that the size of Precinct 2A coupled with controls for amenity, heritage and character, justifies the mandatory maximum of 31 metres. Further, the retention of the heritage façade establishes an appropriate street wall height. In Precinct 2C, the Panel consider the heights nominated in the Part C DDO16 reflects an appropriate transition between the Gasworks site and the two-storey Elizabeth Terraces and Napier Gardens.

The Panel notes the Elizabeth Terraces make an important contribution to the experience of Napier Gardens and it supports the controls on building heights and street wall heights to minimise overshadowing of Napier Gardens and respect that contribution.

The Panel supports Council's change to Clause 2.5 Corner site requirements to note that the standard requirements did not apply to the corner of Napier Street and Queens Parade. In this corner, it may have resulted in an inappropriate design response.

(iii) Findings

The Panel finds that:

- The building and street wall heights outlined in Table 2 of the final version of DDO16 (Appendix E) provides an appropriate response to Precinct 2.

6.3 Street, upper level, side and rear boundary setback

(i) Submissions and evidence

The exhibited, preferred and final position of Council with regard to street, upper level and rear boundary setbacks for Precinct 2 is included as Appendix D.

The key issues to be resolved in relation to setbacks in Precinct 2 are:

- whether the setbacks should be mandatory or preferred
- whether the front setbacks should be five or six metres from Napier Street
- the appropriate dimension for the upper level setbacks on Queens Parade and Napier Street
- addressing the difference in heights between different street frontages at the corner of Queens Parade and Napier Street.

Council proposed a number of discretionary upper level setbacks that respond to the greater height in Precinct 2A to achieve adequate levels of visual separation for development above a heritage building. In relation to side and rear setbacks in Precinct 2A, Council proposed different responses to consider the sensitivities of adjacent uses; these being land in either the MUZ or NRZ.

In Precincts 2B and 2C, additional rear setback controls seek to facilitate laneway access.

In Precinct 2B on Napier Street, Council proposed mandatory minimum upper level setbacks to achieve consistency and ensure development is adequately recessive.

Mr Parsons supported the Council's preferred side and rear setbacks but suggested they should apply the controls outlined in Figures 1 and 2 of DDO16 for consistency.

Ms Ancell noted that in Precinct 2A, the side setback controls only gave guidance up to 25 metres and observed it was not clear what setback was intended for development above 25 metres. She concluded that this required resolution in the planning control.

In relation to Precinct 2B, Mr Parsons opined that the proposed six metre upper level setbacks provide sufficient protection for amenity and character given its location in the C2Z. He added that the controls should incorporate a mandatory 4.5 metre rear setback from the laneway centreline, noting the approved 81-89 Queens Parade planning permit already incorporates a similar rear setback.

Mr Parsons noted the rear and side setbacks specified different setbacks for windows of habitable and non-habitable rooms. He recommended a standard 4.5 metre preferred upper level setback irrespective of the window use and observed this would not preclude building uses to change over time. He stated that offices require as much amenity as apartments, particularly daylight.

In relation to upper level setbacks in Precinct 2B, Mr Gard'ner suggested a mandatory upper level eight metre setback was required. In his view, the proposed six metre upper level setback would not be adequate to retain all front chimneys in future development proposals on Napier Street.

In relation to Precinct 2C, Mr Parsons opined that the proposed six metre upper level setback provided sufficient protection for amenity and character bearing in mind the sites' location in the C2Z. However, he recommended this upper level setback be mandatory throughout this Precinct to ensure consistent upper façade alignment.

At the Hearing, Mr Naughton objected to the increase in upper level setbacks in Precinct 2C from five to six metres, and as in his opinion, it was unwarranted in one of the few low constraints precincts in the QPAC.

Council responded by stating that a mandatory six metre upper level setback is only warranted on Napier Street given its location in the C2Z, the isolated nature of the terraces and the greater intensification opportunities and expectations for this Precinct. Council advised the Gasworks site contemplates upper level setbacks generally in accordance with eight metres to a higher street wall of six storeys along Queens Parade and Smith Street.

Council did not agree with the evidence of Mr Gard'ner that Precinct 2B required an eight-metre upper level setback. It submitted that given the zoning of the land, the design requirements (to be amended to refer to chimneys) and the isolated nature of the terraces on Napier Street, a mandatory six metre setback was more appropriate.

Council contended the controls for side and rear setbacks are appropriately discretionary to allow scope to respond to individual circumstances and it rejected the evidence of Mr Parsons that they be mandatory.

In relation to controls for buildings over 25 metres in height, Council suggested these will be assessed on a case by case basis.

(ii) Discussion

The Panel agrees with the position of Council that a mandatory upper level setback of at least six metres on the Napier Street frontages in Precincts 2B and 2C would provide greater consistency and offer a more appropriate response to the sensitivity of these frontages. The Panel considers that discretionary controls are appropriate for upper level setbacks on all other frontages and considers a consistent six-metre minimum setback for all frontages would assist consistency and ease of application.

In relation to Precinct 2A, the Panel agrees that the larger scale of development and variety of potential design outcomes merits a variety of controls. The Panel supports the level of discretion proposed, recognising that a range of design solutions may assist in achieving an appropriate level of amenity.

In relation to other rear and side setbacks in Precinct 2A, the Panel accepts Council's Preferred version that it is appropriately based on the interim DDO.

In relation to the setback controls in excess of 25 metres, the Panel agrees with Council that consideration on a case by case basis is appropriate in this Precinct.

(iii) Findings

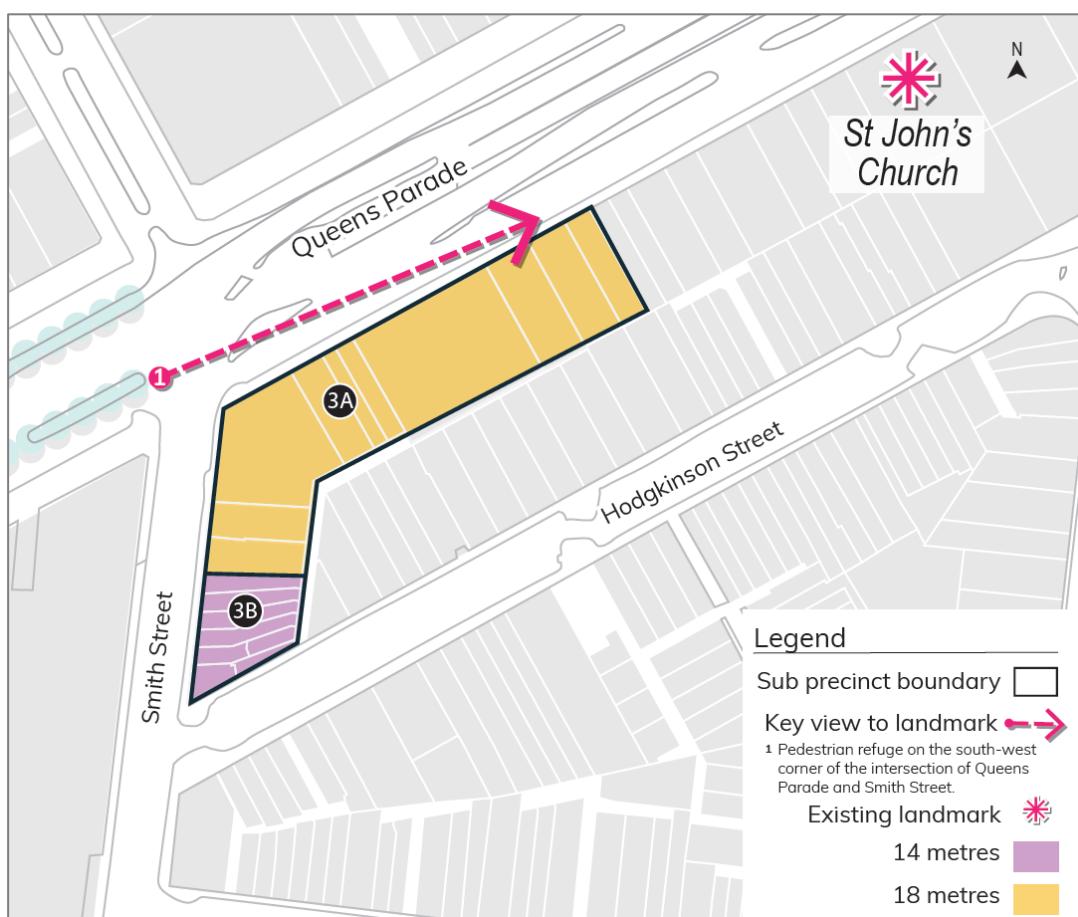
The Panel finds that:

- The street, upper level, side and rear boundary setbacks outlined in Table 2 of the final DDO16 (Appendix E) are appropriate.

7 Precinct 3

Precinct 3 is a mixed-use area that occupies a prominent location on the south side of the intersection of Queens Parade and Smith Street (Figure 3⁹). The southernmost part of the Precinct fronting onto Smith Street has a relatively consistent character of two storey buildings that are terraced in form and directly abuts the footpath. The balance of the Precinct comprises a diversity of typically larger lot sizes and widths and setbacks. Residential uses in the NRZ adjoin the Precinct to the south and west, in some places separated from the commercial properties by a laneway, in some places not. The spire of St Johns Church provides a prominent feature above the buildings in this Precinct when viewed from Queens Parade.

Figure 5: Map of Precinct 3



⁹ From Council's final version of the Amendment to show its preferred viewing point for St Johns Church

7.1 Preferred character and design requirements

(i) Submissions and evidence

Council's preferred position was that development should contribute to delivering an attractive mixed-use area with active frontages to the street that maintains the visual primacy of the spire of St Johns Church on the skyline. The Panel notes that post exhibition, Council divided the Precinct into two Precincts (3A and 3B) to respond to the different character and context of each. Council's design objectives for Precinct 3A include to support a new mid-rise character behind a consistent street wall and for Precinct 3B, to support the existing low-rise character.

Mr Parsons questioned the value of the mandatory requirement to require clear sky to be retained around the spire and belfry of St Johns Church when viewed from the key viewpoint identified in Figure 5. He opined that while the viewpoint in the preferred DDO16 allowed a view of the spire, it was not helpful in assessing the impact of different heights. He observed this view was not noticeably impacted by development at heights greater than the proposed mandatory maximum height of 18 metres.

Ms Ancell highlighted the sensitive interface of the residential properties on Hodgkinson Street adjoining this Precinct, particularly with regard to visual bulk and overshadowing.

Submitters 398 (represented by Mr O'Farrell) considered that 15-33 Queens Parade was an ideal site to deliver increased residential densities and housing diversity consistent with the strategy for moderate change areas. Mr O'Farrell observed that it was the largest single site in the activity centre.

Mr O'Farrell submitted a marked up copy of DDO16 (Document 124) that suggested a design requirement be amended to require a street wall that provided an appropriate transition between precincts and that maintains the prominence of a heritage street wall where present in the streetscape. He further suggested removing text in the design requirements that required building heights and setbacks to transition to surrounding properties to ensure a reasonable standard of amenity, reasoning that it was unnecessary as this objective was already established. Mr O'Farrell contended that the design requirement to minimise the dominance of wide building frontages was without proper basis, and he relied on the evidence of Ms Bell in this regard.

Ms Bell gave evidence that she had no concerns with the preferred character statement that development must retain the primacy of St Johns Church and the design requirement to maintain 'clear sky' around the spire. She presented modelling that demonstrated this character aspiration and design requirement could be met with a taller building than that suggested in the preferred DDO16.

Submitter 199 asserted that the views indicated in the modelling did not reflect the location shown on the map. Submitter 199 (amongst others, including S224 and S414) submitted that development of this Precinct will have a detrimental impact on amenity and the heritage values of the Precinct and abutting residential area.

In its Part C submission, Council recognised discrepancies between the key views to the spire and belfry depicted in the Built Form Analysis, the Heritage Analysis and the exhibited

DDO16. Council nominated the pedestrian refuge on the intersection of Queens Parade and Smith Street as the preferred location as the key viewpoint. Council acknowledged the sensitivity of the interface with residential properties to the south.

(ii) Discussion

The key issue was the differing opinions about the significance and location of the viewpoint to St Johns Church. The Panel considers that while the position of this viewpoint was described in the design requirements and shown on Map 3 in DDO16, that description was not entirely clear and could be interpreted as a number of different places, as asserted by Submitter 199. These different locations made a significant difference to the view of the spire as demonstrated in Document 46, submitted by Ms Brennan.

The Panel considers this confusion was partly due to modelling of the view that did not accurately reflect the conditions (e.g. Figure 7.9 in Mr Parsons evidence statement). The modelling did not include any trees, street infrastructure or street furniture that in the actual view, impact or partly obscure the view. To appreciate all components of that view, a viewer standing in the nominated location would have to make several observations from several slightly different locations.

The Panel considers that in future, such discussions may be expedited with a definition of the role and tolerances of a specific viewpoint. In the Panels estimation, tolerances of one metre around a clearly identified point will enable a viewer to make observations necessary to disregard the impact of intervening street furniture to make informed observations.

Notwithstanding, the Panel accepts Council's contention that the viewpoint nominated in its Part C DDO16 allows assessment of proposed development and its impact on the prominence of the spire and belfry.

The Panel notes the Part C preferred character statement requires that development not dominate the Victorian era buildings and street wall. The Panel considers this expresses the impact of new development in negative terms and does not reflect the positive contribution a high standard of contemporary development can make to protecting and enhancing the character of an area.

The Panel does not accept Mr O'Farrell's suggested deletion of the aspiration that new development respects the prevalent close grain of development and minimises the dominance of wide building frontages. The Panel considers the heritage values of the area derive not just from the presence of heritage features, but also from the characteristic patterns they create in the Queens Parade streetscape. The proposed design requirements help to highlight and protect these patterns.

The Panel does not agree with the contention of Mr O'Farrell that it is unnecessary to specify that building heights and setbacks should consider amenity of surrounding residents in the preferred character statement. As Ms Ancell pointed out, the adjoining residences are potentially amongst the most impacted by development of any of the five precincts in QPAC. The rear setback controls appropriately give recognition to this sensitivity and may assist to ensure amenity is given appropriate consideration when weighed up against other considerations.

The Panel considers that the aspirations in the final preferred character statement to articulate the high-profile corner of Smith Street and Queens Parade with a higher street wall and at the same time set development back at upper levels, is confusing and appears to be pointing to contradictory outcomes. It has amended wording in DDO16 (Appendix EE) to remove this confusion.

(iii) Findings

The Panel finds that:

- The preferred character statement generally describes an outcome that is appropriate and can be achieved by the metrics and design requirements in DDO16.
- In addition to minor changes indicated in Chapter 3.3 to improve clarity and minimise duplication, the preferred character statement should be amended to:
 - Express the aspiration that development '*complements*' the existing Victorian era buildings and street wall rather than '*not dominate*' it.
 - Express the aspiration that new development articulates the higher profile of the corner of Queens Parade and Smith Street, relative to its immediate surroundings. This allows for the deletion of bullet points that new development is provided for at and around the Smith Street junction and this corner is marked by a higher street wall and development set back at the upper level.
- The design requirements should be amended to ensure development:
 - Respects the built form rhythms established by heritage elements on Queens Parade and Smith Street.
 - Responds appropriately to the sensitive interface with neighbouring residential properties on Hodgkinson Street by minimising visual bulk and mass and providing adequate building separation for side and rear boundaries abutting existing properties.
- In relation to development in Precinct 3A, the design requirements should be amended to ensure:
 - The interpretation of the key view point does not rely on a written description of the key viewpoint, instead specifying the viewpoint shown on Map 3 as defined by Council within tolerances of one metre.

7.2 Building and street wall height

(i) Submissions and evidence

The exhibited, preferred and final position of Council with regard to building and street wall heights for Precinct 3 is shown as Table 5.

Table 5: Summary of Council position for height in Precinct 3

Height	Exhibited version	Preferred version	Final version
Building	18m (preferred)	New Precinct 3A: 18m (mandatory)	No change
	18m (preferred)	New Precinct 3B: 652-662 Smith Street - 14m (mandatory)	No change
Street wall	15-33 Queens Parade: 11m Retain height of existing heritage façade Match adjoining parapet Elsewhere – 14m (mandatory)	New Precinct 3A: 15-33 and 41 Queens Parade: 11m 35-37 Queens Parade: retain existing Elsewhere: 14m (mandatory)	No change
	18m	New Precinct 3B Retain height of existing heritage façade (mandatory)	No change

The key issues to be resolved in relation to heights in Precinct 3 are:

- retaining the key views of the spire and belfry of St Johns Church
- whether the designated 18 metre height in Precinct 3A should be mandatory or discretionary
- protecting the amenity of adjoining and adjacent residential properties.

Council advised the building heights for Precinct 3A were exhibited as preferred but then changed to mandatory post exhibition to respond to the characteristics and sensitivity of the two Precincts. Variations in the street wall height provided a more localised response to the different locations within Precinct 3A. Council submitted that mandatory height provisions would create consistency in the streetscape and certainty for the residents of properties abutting the Precinct to the south.

Mr Parsons gave evidence that the deep lots and inconsistent heritage frontages justified buildings up to 18 metres in Precinct 3A. He expressed the view that given the sensitivity of the surrounding residential properties, this should be considered a mandatory maximum. In evidence, he noted these height limits contributed to a reasonable compromise, restricting overshadowing of adjoining properties at the equinox, a common benchmark in planning schemes.

Mr Gard'ner gave evidence that:

The Ethos Urban modelling demonstrates that development that exceeds this limit is likely to have an unacceptable impact on the prominence of the tower and spire of St Johns Church which is a significant physical feature (and heritage place) within the Queens Parade streetscape. A mandatory control is therefore supported as it meets the criteria within PPN59 and PPN60.

He added:

Four storey street wall height within this Precinct is the maximum that will achieve an acceptable heritage outcome, and that this height should be moderated down to a three storey (11m) scale at 15-33 and 41 Queens Parade to enable a transition to retained heritage buildings.

Mr Gard'ner recommended minor drafting changes to the street wall provisions in Precinct 3A to provide that a new street wall not exceed the height of an adjoining heritage street wall.

In his peer review, Mr Helms questioned whether the height control should be mandatory in 3B having regard to its heritage significance and acknowledged that it may be justified given the sensitive residential uses at the rear.

Ms Ancell supported the heights outlined in Table 3 of the preferred DDO16, noting that development should seek to balance the sensitivity of residential properties to the south with an imperative to make the most efficient use of urban land and infrastructure given the Precinct enjoyed good access to public transport.

Mr O'Farrell argued that the 18 metre building height at Precinct 3A is not required to protect the views to St Johns Church; and a maximum street wall height of 11 metres and minimum upper level setbacks of six metres are not required to protect the views to St Johns or for any other reason.

Mr O'Farrell relied on modelling by Ms Bell to suggest that buildings could exceed the 18-metre height without detriment to the views of the spire of St Johns Church. His primary position was that the 18-metre height could be supported, but not as a mandatory control. In support of this position, Ms Bell gave evidence that the mandatory building heights in the preferred DDO16 were not necessary to protect the views of the Church (as modified in Document 104).

Ms Bell suggested that the controls for Precinct 3A be amended to allow a street wall of 14 metres for 11-33 Queens Parade and the maximum height be 18 metres preferred as exhibited. She asserted that development at this height would protect views to the spire of St Johns Church. Ms Bell provided modelling (Document 104) that demonstrated the character aspiration and design requirement could be met with a taller building than that suggested in the preferred DDO16.

Under cross examination from Ms Brennan, Ms Bell conceded that she had not considered the cumulative impacts of other adjacent buildings that could be developed to this height in this Precinct.

Submitter 199 suggested the maximum street wall in Precinct 3A should be lower to achieve a consistent parapet height with existing buildings in the Precinct. Submitter 209 noted that development should not exceed three storeys in height to retain views to heritage buildings, the character of the low-rise stopping strip and transition to Hodgkinson Street.

Several community submitters (e.g. S54 and S400) expressed concerns that building heights may cause overshadowing and overlooking. Submitter 400 sought a three to four storey (14 metre) height limit. Others (S403 and S263), suggested that maximum height in this Precinct

should be four storeys in keeping with the revised height limit in Precinct 4, asserting that the same issues that apply in Precinct 4 apply in Precinct 3.

Protect Fitzroy North (S280) considered the maximum proposed street wall and building heights within Precinct 3 were too tall on the basis that they would diminish vistas of St Johns Church. Protect Fitzroy North and others (e.g. S145 and S402) suggested a mandatory maximum building height of 14 metres in both Precincts.

In its Part C submission, Council maintained its position on its preferred version of the building and street wall heights. It considered the proposed heights struck the right balance of facilitating intensification and protecting character and amenity. It stated that the 18 metre height in Precinct 3A recognised the capacity of this area to accommodate intensification, while the mandatory provisions are an important tool that will assist in limiting visual bulk for abutting neighbours. Council acknowledged that new development may overshadow rear properties at mid-winter but stated the controls were designed for a reasonable compromise that restricts shadowing at the equinox, particularly in the context of the proposed zoning of the land to C1Z.

Council accepted Mr Gard'ner's recommended minor drafting changes to the street wall provisions in Precinct 3A to provide that, rather than match an adjoining heritage street wall, the new street wall should not exceed an adjoining heritage street wall.

Council rejected Mr O'Farrell's submission and Ms Bell's evidence for the height to be preferred rather than mandatory, noting the view to the spire of St Johns Church was only one of the reasons why the preferred DDO16 incorporated mandatory controls for height and street wall. Council added that a street wall height of 14 metres, as suggested by Ms Bell and Mr Gard'ner, if consistently applied to 1-33 Queens Parade (approximately 80 metres in length) would fail to achieve the design requirement of Precinct 3A to "*emphasise the corner of Queens Parade and Smith Street with a higher street wall*".

Council further expressed the view that a 14-metre street wall that extended to the northern edge of the Precinct would not create an effective transition to the adjoining residential area. Council stated that the discretionary street wall provisions, suggested by Ms Bell for 1-33 Queens Parade but not for other properties, was inconsistent with the preferred character of a consistent street wall.

(ii) Discussion

The Panel considers that the difference in lot depths, varying intactness of heritage fabric, existing built form and sensitivity of surrounding residential properties, justify mandatory heights in Precinct 3A and 3B and a variety of street wall heights within Precinct 3A. Further, the Panel is of the opinion the more varied built form in Precinct 3A justify greater heights in Precinct 3A than in either Precinct 3B or Precinct 4.

The Panel notes that Precincts 3A and 3B partly enclose residential properties on Hodgkinson Street (in NRZ and HO317), particularly those properties nearer to the corner of Queens Parade and Smith Street. Newer and taller forms of development could potentially impact on more than one outlook from these properties. This justifies careful consideration of amenity and overshadowing impacts in defining a maximum height. The Panel agrees with Council, Mr Parsons, Mr Gard'ner and Submitter 199 that the heights should be

mandatory to protect the amenity of the immediate adjacent properties (recognising Submitter 199 and others preferred the heights to be less than 18 metres).

The Panel does not agree with Mr O'Farrell and Ms Bell that mandatory heights are not necessary in this Precinct. The Panel accepts the position of Council that mandatory height controls are an essential control to ensure a reasonable standard of amenity for residents of the abutting residential properties, given their sensitivity and partial enclosure by commercially zoned land.

The Panel rejects the assertion that a preferred street wall height of 14 metres would achieve an acceptable outcome in Precinct 3A. The Panel considers that a building with such a street wall height would not adversely impact views of the spire of St Johns Church, as stated by Ms Bell. However, as noted by Mr Parsons, this might be considered a short falling of the requirement, rather than an indication of an acceptable development. The Panel gives more weight to the concern raised by Council that changing the maximum street wall height to 14 metres could lead to a continuous wall of this height across the frontage to Queens Parade in this Precinct. Apart from the mass of building this represents, it could create an inappropriate interface with the abutting residential properties to the north.

The Panel considers that the street wall heights in Precinct 3A and 3B are appropriately nuanced to address localised circumstances, while allowing for reasonable change to occur. This should ensure the street wall height of development fronting Queens Parade will appropriately respond to the heritage buildings of different heights and the low scale residential uses to the east of the Precinct.

This approach should also ensure development fronting Smith Street (in Precinct 3B) responds to the consistent two-storey terrace of the largely heritage buildings.

The Panel considers that departure from these heights is justified to articulate the high-profile corner of Queens Parade and Smith Street in keeping with the amended preferred character statement and design requirements. This requires that the street wall heights controls be amended to facilitate a taller element on the corner of Queens Parade and Smith Street.

The articulation at this point requires careful balance; too wide and it will inadequately emphasise the corner, too narrow and it will define an area behind the street wall that will not provide a useable internal space. Likewise, the specified maximum height needs to facilitate standard floor to floor heights. The Panel considers an envelope that extends six metres either side of the corner and allows six metres more height within that envelope will achieve such a balance. This will distinguish this corner as the only place where the street wall height approaches the maximum building height.

(iii) Findings

The Panel finds that:

- The building height for Precinct 3A should be 18 metres mandatory.
- The street wall height for Precinct 3A should be varied to provide that for 35 – 37 Queens Parade, it should retain the height of the existing heritage façade and be amended to add "*6 metres on either side of the corner of Smith Street and Queens Parade – 17 metres*".

- The building and street wall heights for Precincts 3A and 3B should be as drafted and as included in Appendix E.

7.3 Street, upper level, side and rear boundary setback

(i) Submissions and evidence

The exhibited, preferred and final position of Council with regard to street, upper level and rear boundary setbacks for Precinct 3 is included as Appendix D.

The key issues to be resolved in relation to setbacks in Precinct 3 are:

- retaining key views of the spire and belfry of St Johns Church through appropriate upper level setbacks
- determining appropriate rear setbacks.

Council's position was that buildings in this Precinct should directly abut the street, with upper floor setbacks to reduce visual impact. Council proposed the upper floor setback be six metres mandatory for 15-44 Queens Parade and preferred on other lots. It further added that setbacks should be mandatory where they sit behind a heritage building and preferred where not. In relation to side and rear setbacks, Council nominated ResCode standard B17 and a varied B17 to address sensitive interfaces between commercial development on Queens Parade and the surrounding residential properties. The varied B17 standard required that new development be setback an additional three metres where there was no mediating laneway between the rear of residential and commercial properties. Council noted this technique has precedence, citing:

- Design and Development Overlays 10 and 19, Stonnington Planning Scheme
- Design and Development Overlays 16 and 17, Darebin Planning Scheme
- Design and Development Overlay 24, Moreland Planning Scheme.

Mr Parsons recommended standardising the upper floor setbacks to a mandatory consistent six metre setback to align upper facades and ensure a physical distinction of upper levels. Mr Gard'ner suggested a mandatory minimum upper level setback of six metres throughout both Precinct 3A and 3B to respond to the sensitivity and integrity of the Precinct. He recommended that these not vary depending on the heritage grading.

Mr Parsons supported an inclined rear set back because "*The rear has a direct NRZ interface of individual heritage houses fronting Hodgkinson Street, part with and part without a lane. This is a sensitive interface both from a visual dominance point of view, as well as potential overshadowing*". He supported the requirement for a three-metre setback where there is no lane to provide a buffer space, which he believed would make an important amenity contribution.

Mr Parsons observed that in Precinct 3A, there is a side setback control which in practice affects only 41 Queens Parade at the east end of the frontage that required a B17 side setback. He considered this to be inappropriate as it produces a frontage gap between the neighbouring two-storey dwelling and the inclined B17 first floor setback (as shown in Figure 7.14 of his evidence). He recommended this could be replaced by an eight-metre height with a 45 degree incline above. He further noted that in Precinct 3B, the varied B17 side setback to the NRZ was unnecessary as the circumstance does not actually occur.

Mr O'Farrell stated that given no submitter objected to the rezoning of Precinct 3A to the C1Z, and that given the surrounding residential lots are within the QPAC, it is not a reasonable complaint that built form within the activity centre will be visible. He referred to modelling of the Precinct by Ms Bell that a lesser upper level setback would not adversely impact views of St Johns Church. He further stated that the rear setback controls were too onerous in that they applied a standard that should not reasonably be expected in a C1Z.

Ms Bell considered the application of a mandatory six metre upper level setback was unnecessary to protect the key viewpoints. She proposed that a four or five metre setback would still ensure the upper levels are visually recessive and the prominence of the heritage streetscape is retained. She disagreed with the proposed three metre setback to the rear where there was no laneway, stating it was unnecessarily onerous.

Submitter 54 suggested that the Panel consider a 10-metre upper level setback. Others, including S140 and S403 expressed concerns that development may increase overshadowing on the residential properties on Hodgkinson Street.

Council responded to these submissions and evidence by stating that the interface of the NRZ properties in Hodgkinson Street is sensitive and needs a careful response. Council noted it was this sensitivity that justified application of the varied B17 controls to provide physical separation between rear gardens and new development where there are no laneways, thus rejecting the evidence of Ms Bell. Council accepted that the provisions for side setbacks needed further refinement and proposed the following modifications:

- the provision for minimum side setbacks in Precinct 3B were removed as redundant
- where a side boundary adjoins NRZ properties and abuts an existing boundary wall, Council proposed an envelope enclosing a wall of maximum of eight metres in height and setback 45 degree above that.

(ii) Discussion

The Panel agrees with the evidence of Mr Gard'ner that the tension between competing planning objectives must be resolved in a balanced way. Queens Parade has excellent public transport, it is a vibrant activity centre and has a high demand for housing choice that make it appropriate for development. It contains a highly intact, turn of the century commercial precinct containing heritage fabric that is highly valued by the local community. The Panel acknowledges that in balancing these important considerations, some trade-offs will be inevitable. To this extent, properties near and within the activity centre can reasonably expect that development of a greater scale may be more visible than would otherwise be the case in streets further away.

The Panel agrees there are different impacts from the proposed rezoning of land to C1Z and depending on whether the interface is mediated by a laneway or not.

The Panel accepts that potential privacy and overshadowing issues are of greater concern where there is no laneway. The Panel considers the provision of three-metre separation as envisaged in the final DDO16 will assist reducing the additional sensitivity. The Panel notes this has been applied in other municipalities (Stonnington, Darebin and Moreland).

The Panel accepts Mr O'Farrell and Ms Bell's contention that buildings with less than six metre upper level setback will not adversely impact the key view of the spire of St Johns

Church. In this regard and in the context of the QPAC, the Panel considers that upper level setbacks play an important role in breaking up the mass of buildings that may otherwise have an adverse impact on the character of an area due to height.

The Panel accepts the position of Council and agrees that upper floor setbacks should be setback at least six metres to achieve an appropriate degree of separation between the heritage streetscape and new development above and behind it. Less than that and an insufficient volume break is achieved. Requiring a greater setback, as urged by some community submitters would be unnecessarily onerous given that the lots here are not particularly deep. The six-metre mandatory consistent upper level setback proposed by Mr Parsons does not allow setbacks to be increased to accommodate some of the heritage roofscapes in the area where the main building is set back more than six metres from the facade.

For these reasons, the Panel considers that the upper level setback should be expressed as a six metre minimum setback.

(iii) Findings

The Panel finds that:

- The street, upper level, side and rear boundary setbacks proposed will achieve an appropriate response as included in Appendix E.

7.4 Recommendations

The Panel recommends:

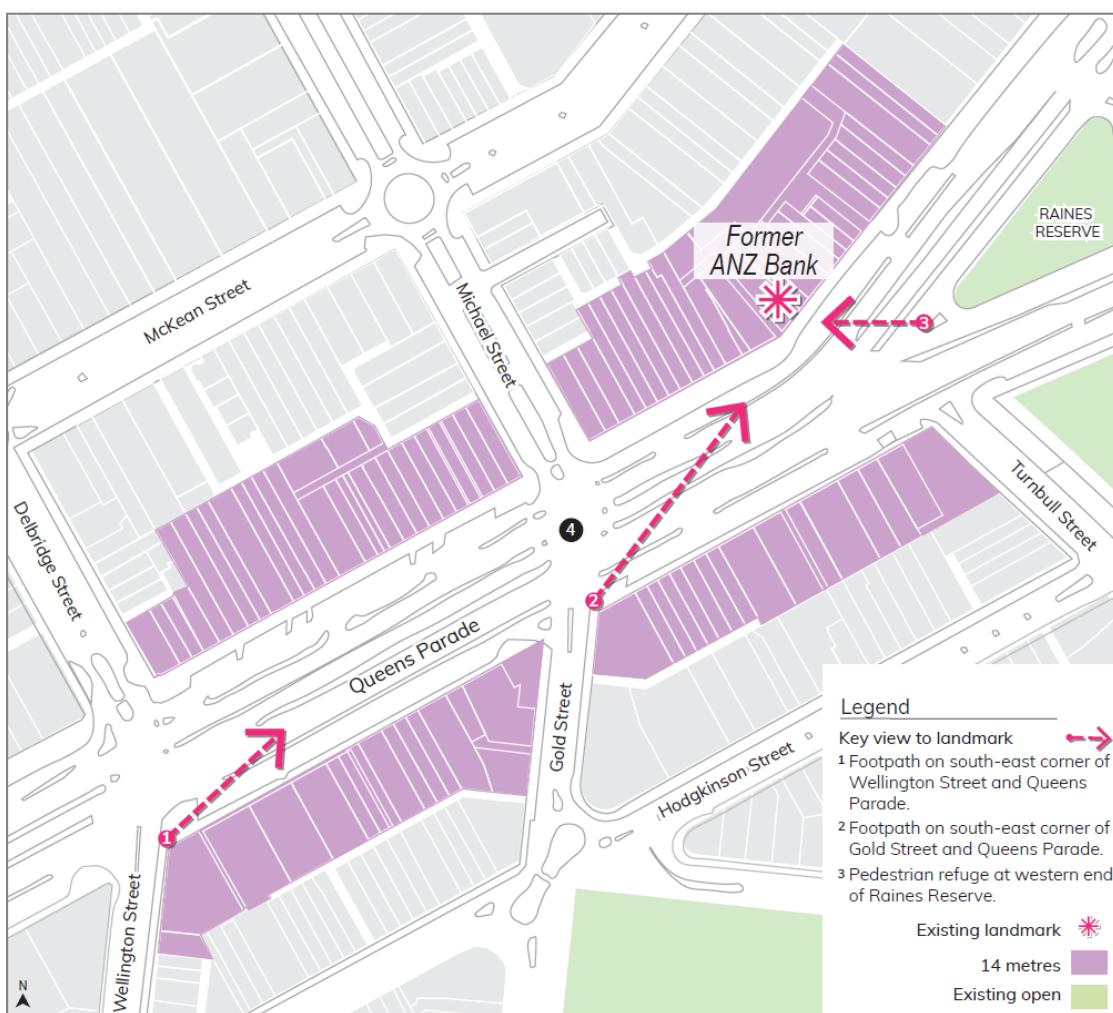
- Modify the street wall height for Precinct 3A to provide that 35 – 37 Queens Parade retain the height of the existing heritage façade and be amended to add “*6 metres on either side of the corner of Smith Street and Queens Parade – 17 metres*” as shown in Appendix E.

8 Precinct 4

This Precinct is the retail and commercial core of Clifton Hill. In this Precinct, both sides of Queens Parade are defined by predominantly two storey buildings in HO330 directly abutting the street (Figure 6). The strong definition offered by the relatively low but consistent built form edge and the wide expanse of Queens Parade create much of its distinctiveness. This consistency of height is complemented by consistency of rhythm of the minor architectural details such as chimneys, piers, parapets and shopfronts that are arranged at regular intervals that results in an attractive, human scale and fine-grained character.

Behind the commercial activities facing Queens Parade, the area is surrounded predominantly by residential development, in many places separated by laneways. In contrast to the long views that are experienced along Queens Parade, these laneways offer a different character. Their narrow width and frequent changes in alignment, variety of edge treatments, with buildings of one or two storeys and a variety of fences and gardens and informal uses provide an intimate scale and valued character.

Figure 6: Map of Precinct 4



8.1 Preferred character and design requirements

(i) Submissions and evidence

Council emphasised the sensitivity of this Precinct and the high value placed on its character and heritage qualities raised several significant challenges that DDO16 would need to address. DDO16 emphasises the consistency and rhythm of these heritage characteristics, its economic vibrancy and the contribution that the former ANZ bank makes to the skyline.

While many submissions supported the preferred character statement and design requirements for Precinct 4, most submissions focussed on the street wall height to achieve that vision.

(ii) Discussion

The Panel accepts that change is an inevitable and necessary feature of any centre as it responds to changing demands and challenges, including population growth. Accommodating change in a way that retains the valued character of an area will require careful design. The openness of Queens Parade and the sensitivity and consistency of the character of this Precinct means that almost any intensification of development will be visible and will require sensitive design solutions that respond to the particular circumstances of each site within the Precinct.

The Panel acknowledges the refinements Council made to the preferred version of DDO16 that give greater weight to recognising the heritage and character values of the Precinct while facilitating a degree of intensification.

However, the Panel has modified these further to reduce repetitiveness and provide clarity. The Panel has included a new design requirement to ensure shopfront widths are not reduced to the extent they may become commercially unviable. Further, the Panel has removed the fine grain subdivision and sunlight provisions and included them as general design requirements in Clause 2.2, as it considers these could apply across the whole of QPAC.

(iii) Findings

The Panel finds that:

- The preferred character statements be amended to:
 - Acknowledge the pattern and rhythm of heritage features
 - Better clarify the prominence of the ANZ building
- The design requirements be amended to:
 - explicitly recognise the importance of ensuring shopfront widths are not reduced to the extent they become commercially unviable.

8.2 Building and street wall height

(i) Submissions and evidence

The exhibited, preferred and final position of Council with regard to building and street wall heights for Precinct 4 is shown as Table 7.

Table 6: Summary of Council position for height in Precinct 4

Height	Exhibited version	Preferred version	Final version
Building	21.5m (mandatory)	14m (mandatory)	14m (mandatory)
Street wall	Retain height of existing heritage façade or if no heritage façade: 8-11m (mandatory)	No change	No change

The key issues to be resolved in relation to heights in Precinct 4 are:

- whether the reduction of height from 21.5 metres (exhibited) to 14 metres (Council preferred version) is warranted
- whether the building height should be further reduced to 10.5 metres as urged by most local submitters.

Council's position changed from exhibition to post exhibition in response to submissions with the mandatory building height reduced from 21.5 to 14 metres (six to four storeys). This was to ensure the characteristic two storey street front is respected by new development.

Mr Parsons gave evidence that "*anything above 14m overall height becomes visually dominant*" which he demonstrated with modelling of different scenarios for height and setback to identify different impacts (Document 17). Mr Gard'ner gave evidence that, on balance, four storeys represented an acceptable height, however he accepted the views expressed by the QPHPTG (and the National Trust that a three storey development height limit would achieve a better outcome from a purely heritage perspective).

Mr Parsons noted that "*Precinct 4 is the most special precinct along Queens Parade*" nominating its significance to the local community and its consistent heritage shopping strip. He stated: "*the view of the low historic streetscape across Queens Parade is remarkably intact, with low roof lines and open sky views*". He modelled the differing impacts of increasing setbacks or decreasing height and produced models of these differing scenarios. He expressed the view that "*greater heights or lesser setbacks would damage the heritage integrity of the precinct*".

Mr Parsons noted it was likely that future development facilitated by this Amendment will "*be narrow and sporadic, leaving higher side walls exposed in views along and across Queens Parade*". In response to questions from the Panel, Mr Parsons acknowledged that this meant that in places, the intricate skyline of fine-grained architectural elements such as chimneys, piers and ridges may no longer define the skyline. Further, he commented that the pattern and rhythm of these features contributed a great deal to its character.

However, Mr Parsons reiterated that the heights nominated in the Council preferred DDO16 represented an acceptable balance between the importance of protecting this character and other planning imperatives.

In her evidence, Ms Ancell noted that with regard to building heights in the exhibited compared with the preferred DDO16:

The approach has generally been to lower the heights and in some cases turn preferred controls into mandatory controls, thus lowering the overall capacity of the Queens Parade Activity Centre to accommodate additional floorspace. However, the

greatest flexibility is still maintained via higher and (generally) discretionary height limits in the precincts with the ability to absorb greater change; placing more stringent restrictions on the heights in the lower scale precincts will not adversely impact the development capacity to a point where the centre could no longer serve its role as a location for some growth.

The majority of submissions in relation to the Amendment came from submitters located in or near Precinct 4. These submitters were generally consistent in that their original submissions contended the exhibited height should be reduced from 21.5 metres to 14 metres to accommodate four storeys only. However, this position changed between exhibition and the Hearing, where the majority of local submitters then advocated for 10.5 metres in building height, due to what they noted, was a change in circumstance once they had reviewed the modelling provided by Mr Parsons.

Several community submitters expressed the view that four storeys was unacceptable on character grounds (e.g. S181 and S259). Submitter 181 raised further concerns regarding perceived ‘facadism’. Several others suggested a maximum of three storeys and some suggested between three and four storeys. Some submitters argued that the heights should be nuanced to reflect the characteristics for different sites (e.g. S21, S65, S165, S221). All submitters maintained that the controls be mandatory.

Mr Lewis and Mr Holdsworth gave evidence for the QPHPTG. Mr Lewis suggested that the maximum building height should be 12.5 metres, stating this could accommodate a four-storey residential development. Under cross examination, Mr Lewis acknowledged this may only be possible where the residential development was set behind the retained commercial development, rather than on top of it, given the typically larger floor to floor height of shopfront rooms in the heritage buildings.

Ms Brennan tested the evidence of Mr Lewis at length in relation to his assertion that a four storey development can be accommodated within a 12.5 metre tall building. Council rejected this for a number of reasons, including:

- the greater floor to floor heights required for commercial uses means there is inadequate room for a commercial floor and three residential floors that could provide a high level of amenity
- this conflicts with advice he had given previously, noting Mr Lewis agreed under cross-examination that he had suggested 13.5 metres was necessary for four storeys in Lygon Street in the 1970s
- there is no precedent for four storey development of this height in the area
- a staggered floor plate between retained heritage buildings and new development behind at a lower floor to floor height is not necessarily a likely or desirable outcome.

Mr Holdsworth gave evidence that suggested a more restrictive approach was appropriate given the limited capacity and sensitivity of this Precinct. He said the maximum building height should be three storeys (10.5 metres). Mr Lewis and Mr Holdsworth both gave evidence that highlighted concerns about the visual intrusion of upper level balconies above the street wall.

In response to these issues, Council acknowledged in its Part C submission that different sites had different capacities for development while maintaining that:

A mandatory height limit must be “not too high” but “not too low” and that, in this case, the 14m height limit strikes the right balance allowing for generous ground level commercial space and a good standard of amenity for residential development behind and above.

(ii) Discussion

The Panel notes a height of four storeys outlined in the Part C DDO16 was generally in keeping with the intent of many community submitters when the Amendment was first exhibited.

The Panel agrees that this Precinct has significant heritage and character qualities and a greater sensitivity to redevelopment. However, the Panel notes that some areas are more sensitive than others. The Panel notes that while proposed street wall heights were generally uncontroversial, building height was heavily contested.

The Panel considers new development is likely to be visible on a skyline that presently contributes to the recognised character of the Precinct.

New development may typically reveal larger expanses of blank side walls in an otherwise finely detailed streetscape. This could interrupt the delicate pattern of heritage chimneys, piers, decorated parapets with elements of different size and grain. Sporadic development in this area is more likely to occur where development is less constrained, such as on corners and on larger and wider lots. This means that the presently highly valued consistency and rhythm of development may be compromised as the larger lots are redeveloped. This may amplify the contrast to the surroundings and modify the experience of the Precinct.

The Panel acknowledges Councils’ opinion that the sensitivities of particular sites will be further considered at the permit stage, once the built form framework is in place. However, the Panel notes the desire for greater certainty expressed by many submitters. All witnesses generally contended that building height certainty in this Precinct is a desirable outcome.

The Panel further notes that in the block defined by Gold and Turnbull Streets on the south side of Queens Parade, the heritage characteristics are less consistent, and the lots are wider than those elsewhere in the Precinct. Consequently, the Panel considers this area is somewhat less sensitive and may have more development capacity.

The Panel considered three scenarios in relation to recommending a building height for Precinct 4. That is: three storeys, four storeys, or a combination of four storeys in the block defined by Gold and Turnbull Streets on the south side of Queens Parade and three storeys elsewhere. The advantages and disadvantages of these scenarios are summarised further.

For three storey development across the Precinct:

- the advantages are:
 - supported by evidence as providing a better heritage outcome
 - may diminish impact of blank walls
 - may minimise likely erosion of character that will come from selective development of wider lots and corner lots
 - may assist retention of small shops
 - may allow greater visual pre-eminence to the former ANZ Bank than four storey development.

- the disadvantages are:
 - may constrain development in some parts of Precinct 4 by making it less viable
 - may marginally reduce the capacity for this area to accommodate new development.

For four storey development across the Precinct:

- the advantages are:
 - supported by evidence as providing the best balance of different objectives
 - more attractive proposition for redevelopment than other scenarios
 - may yield a greater number of dwelling units.
- the disadvantages are:
 - may increase development pressure which in turn is likely to lead to a faster turnover of shops
 - larger lots likely to be developed first which may mean the present fine grain of frequent small architectural features defining the character may become inconsistent with wider lots becoming the highest buildings
 - highly prominent side walls
 - the shorter lots to the south of Queens Parade may limit development because of overshadowing to the rear.

For four storey development in the block defined by Gold and Turnbull Streets on the south side of Queens Parade and three storeys elsewhere:

- the advantages are:
 - responsive to community, and heritage, urban design, economics evidence that development is more likely on unconstrained larger lots and corners (this area has larger lots, two street corners and less consistent heritage qualities)
 - blank walls may have less impact in the area where there is a greater capacity to accommodate them
 - typically, wider lots in this area may mean that a residential door and a viable shopfront can both be provided onto Queens Parade
 - may yield more units than a blanket three storey height limit
 - may allow greater visual pre-eminence to the former ANZ Bank than a blanket four storey development.
- the disadvantages are:
 - the four storey area is only partially served by laneways so vehicular access might be problematic
 - as the residential area is to the south, solar access may become more of an issue
 - may yield fewer units than a blanket four storey height limit.

The Panel further notes that although the Council witnesses agreed four storey development was an acceptable balance of heritage and other considerations, Mr Gard'ner conceded three storey development would achieve a better heritage outcome. His view was shared by many in the community.

The Panel considers that the further amended DDO16 will provide clear direction to assist consideration of development outcomes in this Precinct and provide for the right balance of certainty with more nuanced controls, without going down to site by site controls. The

Panel considers that the generally high and sensitive character and heritage values of this Precinct warrant prioritising the protecting heritage over facilitation of development.

(iii) Findings

The Panel finds that:

- A 14 metre (four storey) mandatory height limit is appropriate in the block between Gold and Turnbull Streets on the south side of Queens Parade.
- Elsewhere in this Precinct, the contribution made to the character of the area by the consistency, fine grained detail and heritage features in this area warrant a mandatory height limit of 10.5 metres (three storeys).

8.3 Street, upper level, side and rear boundary setback

(i) Submissions and evidence

The exhibited, preferred and final position of Council with regard to street, upper level and rear boundary setbacks for Precinct 4 is included as Appendix E.

The key issues to be resolved in relation to setbacks in Precinct 4 are:

- whether minimum upper level setbacks warrant an increase in height to eight metres
- how distances from side and rear boundaries adjacent to land in the NRZ and C1Z should be calculated.

In its Part B submission and final version of DDO16, Council sought to give greater weight to consistency and further diminish the impact of new development by increasing upper level setbacks to eight metres and making them mandatory across the Precinct.

Council suggested different rear and side setbacks to respond to different adjoining uses as a consequent of either the NRZ or C1Z.

Mr Parsons noted in his evidence that an eight metre setback generally coincided with the depth of the original heritage roofs and if applied, 60 per cent of roofs would be protected without further assessment. He advised that where the roofs were greater than eight metres in depth, the heritage design requirements in the preferred DDO16 provide a decision-making framework on a case by case assessment.

Mr Parsons said that overshadowing metrics that would inform the design of the rear of buildings on the south side of Queens Parade should be abandoned because they unnecessarily complicated the process, effectively duplicated other measures, were inequitable and offered little. Mr Parsons offered modelling (Document 19) that showed removing this control would only marginally diminish daylight access. In response to this, Submitter 199 asked the Panel to give weight to the importance of not further eroding amenity, given the other impacts of intensification.

Mr Parsons, the Royal Historical Society (Document 53, S259) and others argued that upper level setbacks that were too small risked facadism, a view shared by many submitters. The 3068 Group and others suggested that upper floor setbacks should be increased to diminish the visibility of new development. Submitter 407 for a number of traders stated:

Regarding setbacks, 6m – or even the so-called compromise of 8m – would cut our spaces in half or worse. My store would be reduced to a quarter of its current footprint.

Mr Holdsworth, Mr Lewis and others (such as the 3068 Inc Group and the QPHPTG) raised the issue of corner sites and the contribution made by development fronting onto side streets. Mr Holdsworth advised careful attention should be paid to the depth of the ‘primary structure’ on the site and its depth or length from the Queens Parade frontage.

Mr Wight submitted that the Panel should consider the impact of the oblique views that blank side walls will have on the heritage skyline. The Panel asked Mr Wight whether a better heritage outcome could be achieved by lowering the height or increasing the upper level setback. He responded that increasing the setback would achieve a better outcome because that would minimise disruption to the street front ground floor commercial uses.

The Collingwood Historical Society (S160) requested the Panel protect the streetscape and skyline of Queens Parade. Submitters 12 and 15 noted that the charm of Queens Parade lies in its streetscape.

Submitters 90, 147, 262 and others sought to apply the ‘invisibility test’, requiring that new development not be visible above existing development.

QPHPTG (S405) noted that there were places in Precinct 4 where the side of commercial development abutted the rear of residential development and the existing controls for sides of commercial properties did not adequately respond to this situation.

Submitter 298 suggested that B17 standards should be applied to determine rear setbacks and heights at a C1Z interface.

Council recognised that many of the submissions heard during the Panel demanded “*a more nuanced approach to the built form provisions for Precinct 4*”. Council acknowledged that properties in Precinct 4 were not all the same and “*that a site responsive design solution and built form outcome will be required for each site, on a case by case basis*”. However, Council submitted that it was neither practical nor appropriate for a precinct-wide DDO to address each property or type of property in a site-specific manner, instead suggesting these could be dealt with at permit stage. It said in its final closing (Document 137):

The mandatory maximum height and minimum upper level setback ensure that the “outer most points” for assessment are established, and the remaining provisions of the DDO16 ensure that an individual assessment of all other elements then occurs. Importantly, Clause 2.8 Heritage Design Requirements, the Preferred Character and the Design Requirements ensure that character and heritage aspects will be considered.

In response to evidence and submissions, Council sought to clarify how the preferred DDO16 would operate in relation to upper level setbacks. It noted the minimum upper level setbacks do not create any obligations to reduce floor space stating the controls “*are to guide new development at the upper levels, provided the minimum setback is not reduced, they do not dictate a setback*”. It added that concerns about the erosion of roof details and facadism will be considered at permit stage, and noted:

Importantly, Clause 2.8 Heritage Design Requirements, the Preferred Character and the Design Requirements ensure that character and heritage aspects will be considered, including whether an upper level should be set back further than the

minimum mandatory 8m on the basis of the retention of important heritage roof form and chimneys.

Council acknowledged that the earlier versions of DDO16 had not adequately responded to situations where the rear of an existing residential property abutted the side of a commercial building (such as at 2 Michael Street). Council amended the description of these controls to state they related to minimum setbacks to a NRZ interface rather than specify different controls for sides and rears, thus triggering the control whether the residential property is to the rear or the side.

Council nominated controls for two scenarios: one where there was a laneway between the QPAC and residential development, and two, where there was not. These were based on scenarios modified from ResCode Standard B17. These ensured that an adequate degree of separation could be maintained between residential and commercial properties where there was no mediating laneway, as well as those situations where there was.

Council further acknowledged that the infrastructure of residential development would require careful management, proposing an additional requirement in Clause 2.6 Ground Floor Design Requirements to the effect that "*building services and service cabinets should not be located on the street frontage of heritage facades, where possible. Where unavoidable, they should be designed and located so they do not dominate the street frontage or detract from the character and appearance of the heritage building*".

Council acknowledged the impact that balconies can have on the character of the area and proposed an additional requirement in Clause 2.4 Upper level requirements to ensure balconies at upper levels do not dominate the solid façades of heritage street walls.

Ms Brennan, in closing refuted the opinion of Mr Wight about setbacks and suggested that staggered floorplates with lower residential floors set behind retained commercial frontages was "*neither likely or desirable*".

Council acknowledged that corner sites had more exposure than mid-block sites and that development on such sites needed to be managed. It noted that corner sites offer a good opportunity for redevelopment given two street (or sometimes three street frontages) and fewer sensitive residential interfaces.

Council did not accept Mr Parsons's suggestion that the daylighting measure should be removed, nor that varied B17 standards should be applied to determine rear setbacks and heights at a C1Z interface, considering this to be too onerous.

In its Part C submission, Council dismissed applying the 'invisibility test' as being too restrictive given the width of Queens Parade, a view supported by its witnesses.

(ii) Discussion

The Panel considers that consistency of the Precinct with its high heritage and character values justify a mandatory minimum upper level setback. Coupled with other controls, this will ensure new development is recessive and protects important heritage characteristics. In terms of the revised metric of eight metres for this setback, the Panel acknowledges the importance of balance with the depths of the heritage roofs.

If the setback was to be too little, the ability to read the heritage buildings as three dimensional forms will be lost, as will many of the finer detailed architectural features on the roof that provide the area with much of its character. Too great and the viability of new development becomes less likely and inefficient gaps may be created on many roofs between the proposed development and the existing primary roof form.

In relation to rear and side setbacks, the Panel observes that the interface between residential and commercial uses is particularly sensitive. The Panel notes that in addition to the two interface scenarios requiring a design response (where a laneway separates residential and commercial development, and where it does not), an additional scenario exists in this Precinct where the rear of residential properties abut the side of commercial properties. The Panel notes that the preferred DDO16 provides a response to these scenarios and to the inherent sensitivities.

The Panel agrees that corner lots and side streets have a high profile and require careful consideration. DDO16 offers a sensitive response to the need to transition from the greater heights and more assertive form of commercial development on Queens Parade to the lower heights and generally more recessive built form of the surrounding residential development.

(iii) Findings

The Panel finds that:

- An eight-metre mandatory minimum upper level setback coupled with additional controls that will be considered at permit stage, represents an appropriate balance of heritage with other considerations.
- The buffers between residential development described as the varied B17 standard indicated as Figures 1 and 2 in DDO16 are appropriate design responses. These responses will assist in protecting the amenity of surrounding residential properties in the two principal scenarios that exist in the area; where a lane mediated between residential development and DDO16 and where it does not.
- The proposed minimum rear setback for C1Z interface of three metres above 11 metres provides an acceptable level of amenity.

8.4 Recommendations

The Panel recommends:

- Modify Table 4 of Design and Development Overlay 16 (Appendix E) to read:
 - Mandatory maximum building height, south side of Queens Parade between Gold and Turnbull Street: 14 metres
 - Mandatory maximum building height elsewhere: 11 metres.

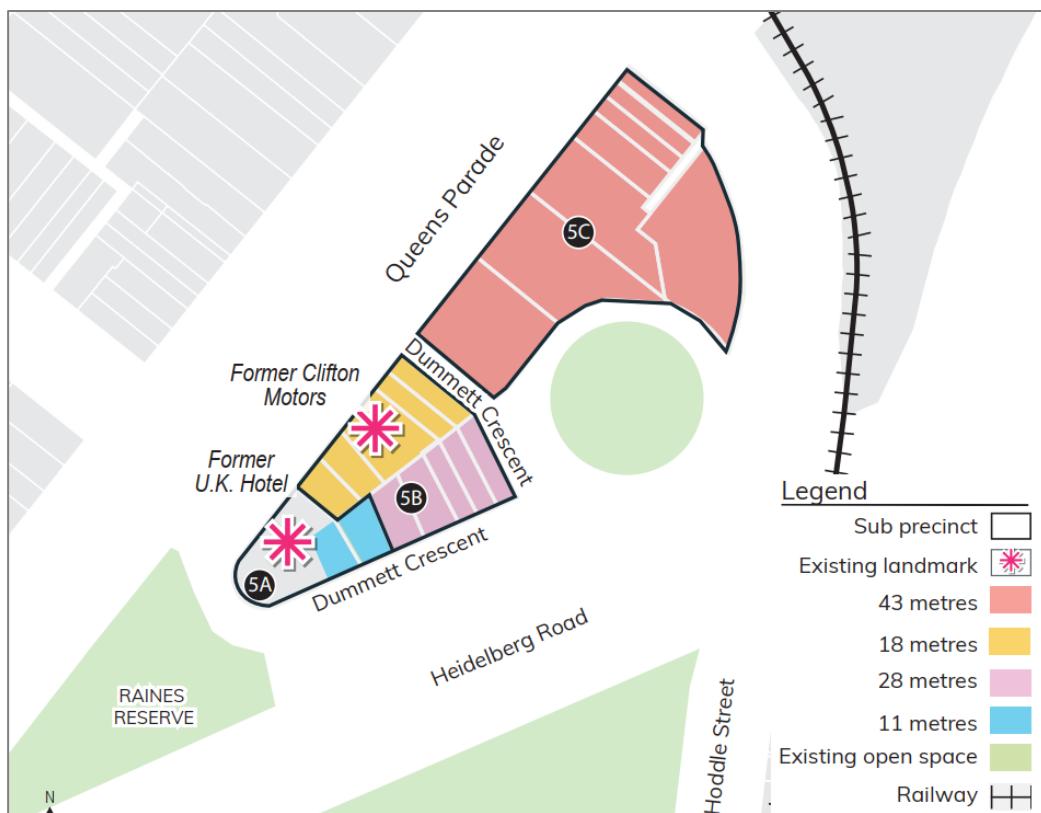
9 Precinct 5

This Precinct occupies a prominent island site, separated from the heritage commercial core of QPAC by the wide expanse of Queens Parade and Heidelberg Road, Raines Reserve and the associated slip roads (Figure 7). The south western extremity of the Precinct is occupied by two distinctive heritage buildings, the VHR listed former UK Hotel and former Clifton Motors Garage site. The open setting and distinctive form of these heritage places can be viewed along or across Queens Parade and they contribute significantly to the streetscape.

The remainder of the Precinct is in transition from a low scale mixed use area to an area characterised by buildings that are significantly larger and contemporary in both height and footprint. The surrounding wide roads and larger buildings contrasts with the narrow scale of Dummett Crescent that transverses the Precinct and serves as an important pedestrian link to the Clifton Hill train station and the recreation centre. This Precinct is distinguished generally from the other precincts in QPAC where a finer grained development pattern, generally lower scale built form and more traditional subdivision layouts are observed.

The Built Form Review noted that recent development approvals (under construction and unconstructed) demonstrate the Precinct's capacity to accommodate change, befitting of its strategic location, proximity to public transport hub (Clifton Hill and Rushall Stations), various parks and recreational facilities and an absence of immediate sensitive residential abutments.

Figure 7: Map of Precinct 5



9.1 Preferred character and design requirements

(i) Submissions and evidence

Council submitted the relatively unconstrained nature and high public transport access of this Precinct made it a preferred location for contemporary higher rise housing growth within the QPAC. Council considered this development should transition or step up from the lower scale heritage buildings at the south western corner of the Precinct. In relation to the character of the tallest built form in Precinct 5C, Council proposed a design requirement to reinforce the scale of existing high-rise buildings of 10 to 14 storeys and “*avoiding taller buildings which detract from this scale*”.

Mr Parsons gave evidence that this approach allowed the Precinct to transition to the rest of Queens Parade. He advised the Panel that the impact of building height on character became less important in this setting and should be given less emphasis. He stated that consideration of above ground setbacks for wind mitigation, privacy, outlook and daylight access were important to achieve good design outcomes.

Ms Ancell noted the proximity of the Precinct to Clifton Hill and Rushall Stations and stated that “*Precinct 5 is different*”, that it is an “*island precinct with robust road interfaces and an emerging high-density character*” which has created “*a more varied and interesting skyline*”. She agreed that the design requirements and Table 5 of the preferred DDO16 would generally deliver the outcomes sought in the preferred character statement.

Mr Pitt generally supported the preferred character statements with design requirements of the preferred DDO16, subject to the qualification in relation to the absence of a laneway street wall parameter. Mr Pitt agreed with the requirements for stepping development height north-east to south-west and to comprise separate building forms as the preferred character in Precinct 5C. He relied on evidence from Ms Heggen with respect to these matters. Mr Pitt recommended additional word changes to the preferred DDO16 at Clauses 2.2, 2.3, 2.4 and 2.9.5. He particularly focused on the design requirement that sought to ensure new development read as a series of separate parts in built form transition from the taller buildings in Precinct 5C down to the heritage buildings in Precinct 5A.

Mr O’Farrell for Submitter 406 noted the Precinct was strategically located at a significant metropolitan intersection of multiple major roads and junction of two major rail lines. He submitted that his client’s property at 267-271 Queens Parade was “*perfectly located to deliver a tower form*” . Mr O’Farrell relied on the evidence of Ms Bell who said:

... the site is located at the tip of an island precinct with robust road interfaces and an emerging high density character.

The 3068 Group Inc requested the Panel consider the walkability of the Precinct and recognise the role of Dummett Crescent as a pedestrian route to the railway station and the recreation centre as an aspiration in the preferred character statement. Submitter 86 supported these views, noting the Precinct had a unique heritage setting with two ‘Art Moderne’ buildings designed by architect J.H. Wardrop.

Submitter 398 (Document 107) suggested the Panel insert a design requirement that the tallest building be located at the north eastern corner of the precinct. That submitter provided a series of photographs that sought to highlight the impact of additional height at

the end of Precinct 5C. In contrast, Submitter 145 suggested an additional design requirement to encourage the highest form be mid-block.

In its closing submission, Council generally maintained its position in response to the evidence and submissions. From a character perspective, Council did not support an additional design requirement specifying that taller buildings be located mid-block, as advocated by Ms Heggen. Council submitted the request to consider walkability was outside the scope of the Amendment.

(ii) Discussion

The Panel agrees that Precinct 5 has distinguishing characteristics compared to other parts of the QPAC, with its island setting and emerging character of taller and larger footprint buildings. In this character setting, the Panel supports the role this Amendment will have in facilitating the urban renewal of this Precinct. The Panel acknowledges Precinct 5 contributes to the composition of the QPAC but has a key role in taking a more significant proportion of renewal and growth.

The Panel notes different views were held as to stepping up built form within or between the Precincts. The Panel considers that the sensitivity of each Precinct and the impact of development does not suddenly change at the boundary between Precincts but varies across and between each Precinct.

The Panel considers that if stepping up was to be solely accommodated between the boundaries of the Precincts, the result would be three areas of consistent height and built form scale that would appear similar across the frontages to Queens Parade. To this extent, the Panel considers that the intent to accommodate larger buildings moving away from the VHR listed heritage buildings is better accommodated with multiple smaller increments and greater separation between buildings than may be achieved by three pronounced steps at the edges of the Precincts.

The Panel accepts the modelling prepared by Ethos Urban which effectively demonstrated the contrast between the human scale and detail of the heritage buildings and the mass of the surrounding buildings, subject to the issues discussed in Chapter 3.7. The Panel agrees that taller buildings closer to the heritage buildings, or a more complete build out of the Precinct, may increase the contrast and may visually diminish the contribution the heritage buildings make to the QPAC. The Panel agrees with Council the metrics proposed in the preferred DDO16 suitability respond to existing heritage fabric and newly constructed development.

The Panel agrees with Council that specific public realm improvements are outside the scope of this Amendment. However, this does not mean the DDO16 objectives and design requirements cannot acknowledge the positive impact that built form can have on walkability and character within the Precinct. The Panel is of the view that design treatment of the buildings abutting Dummett Crescent can assist in achieving these objectives. The Panel observes that Council's Part C submission recognises this in its consideration on wall heights and setbacks abutting Dummett Crescent.

The Panel acknowledges Mr Pitt's recommendations for wording changes in DDO16 to strengthen the transitioning and separation of higher built form within the Precinct.

However, the Panel is satisfied the preferred character statements and design requirements, as further amended by the Panel, are adequate and fit for purpose to guide redevelopment of this Precinct.

The Panel notes that Clause 21.08-4 of the Yarra Planning Scheme has the aspiration to create stronger linkages between the community facilities. To this extent, it is appropriate that the preferred character statement and design requirements acknowledge an aspiration to support walkability.

The Panel notes that new development within the Precinct should respect and respond to equitable development opportunities.

(iii) Findings

The Panel finds that:

- It is appropriate for new development in this area to contrast with other areas as an area of contemporary higher rise development, while retaining other prominent Precinct features that include the heritage fabric of the former UK Hotel and Clifton Motors Garage buildings.
- The built form steps up within and between Precincts, supporting buildings at the most northern point to be the highest.
- The preferred character statement is amended to require development to deliver improvements to walkability.
- The design requirements are amended to:
 - achieve equitable development outcomes.
 - promote a safe and legible walking environment that offers visual interest and encourages passive surveillance.

9.2 Building and street wall height

(i) Submissions and evidence

The exhibited, preferred and final position of Council with regard to building and street wall heights for Precinct 5 is shown as Table 8.

Table 7: Summary of Council position for height in Precinct 5

Height	Sub precinct	Exhibited version	Preferred version	Final version
Building	5A	18m	11m (mandatory)	11m (mandatory)
		1:1 heritage street wall	No change	Deleted
		28m elsewhere	No change	28m
	5B		201-215 Queens Parade: 18m (mandatory)	10m (mandatory)
Street wall	5C	49m	43m	43m
	5A	36m	18m	18m
	5B	Mix of 8-11m (mandatory or preferred)	No change	No change

	No higher than eaves of former UK Hotel (mandatory)	No change	No change
5C			

The key issues to be resolved in relation to heights in Precinct 5 are:

- maintaining the distinctive heritage values and prominence of the VHR Listed buildings in Precinct 5A
- resolution of the preferred 43 metre building height and upper level setback in Precinct 5C
- use of mandatory heights and setbacks for 201-215 Queens Parade.

Council submitted that development should ‘step up’ beyond the more sensitive end of the VHR listed heritage buildings in Precinct 5A to the less constrained areas of Precinct 5B and 5C.

Mr Parsons supported the 11 metre mandatory height limit in Precinct 5A to respect the setting of the heritage assets. For undeveloped lots in Precinct 5A adjacent to Precinct 5B, (indicated in blue on Map 5 in DDO16), Mr Parsons recommended an 11 metre height to facilitate some height variation in this area.

Mr Helms agreed with Mr Parsons. He gave evidence that to protect the contribution and setting of the VHR listed former UK Hotel, Precinct 5A should have a mandatory building height of 11 metres.

Mr Gard’ner recommended a 28 metre preferred height in Precinct 5B with a further refinement for the properties immediately adjacent to the former Clifton Motors Garage building (201 and 213-215 Queens Parade) be an 18 metre (mandatory) height limit.

In relation to street wall heights, Mr Gard’ner suggested that street wall heights in Precinct 5A should be “*no higher than the parapet height of former Clifton Motor Garage or eaves line the former UK Hotel*”. This departed from the initial position of Council in that it removed reference to the parapet of the former UK Hotel building as a benchmark for acceptable heights.

Mr Parsons advised an overall 43 metre height was a reasonable benchmark in Precinct 5C, however there was no strong justification for locking in an absolute height. He added he would “*not be alarmed*” by a taller building on the north eastern extremity of the Precinct and that a well-designed tower might continue the upward transition further to the east. However, he cautioned that the extra height should be justified by specific design and not be regarded ‘as of right’. Mr Parsons supported the 11 metre preferred maximum street wall height, principally to facilitate human scale at the street.

Mr O’Farrell submitted that there was no sensible town planning basis for reduction in the preferred height in Precinct 5C from the exhibited 49 metres to 43 metres as proposed by Council. He further submitted that the case for any mandatory controls and the reduction of building height in Precinct 5C had not been made by Council. He considered the change in height was not required for overshadowing or heritage reasons, nor was it supported in evidence by Ms Bell, who noted:

It is a site that warrants intensification at a scale that responds to its location on a significant junction creating a ‘book end’ to the NAC.

Mr Pitt acting on behalf of TLC Aged Care Pty Ltd (Submitter 401) relied on the evidence of Ms Heggen, who noted that:

The concept of a built form transition from a high point in Sub Precinct 5C to the former UK Hotel in Sub Precinct 5B is sound; and

The responsibility for new development to have particular regard for the specific characteristics of heritage buildings and heritage precincts is appropriate.

Ms Heggen considered a mandatory overall building height and upper level setback for new development in Precinct 5B was "*strategically justified*".

Mr Pitt noted the northernmost section of Precinct 5C could be distinguished from the remaining development and noted built form in this location:

... should be higher than its southern neighbour to be consistent with the urban morphology sought by DDO16, the only question being by how much.

Ms Heggen in evidence contended there was a strong strategic rationale:

... to support a transition in new building height from Sub Precinct 5C to Sub Precinct 5A and Raines Reserve.

However, Ms Heggen considered it was "*less important*" what maximum building height was eventually settled on between building sites in Precinct 5C to the north of 5B. In her view it was more critical to:

... ensure an acceptable building height transition and new built form behind and above the retained former Clifton Motor Garage.

In this context, Ms Heggen did not specify an overall height for built form within Precinct 5C. She recommended DDO16 should also include a laneway wall height definition.

Mr Gobbo (for Submitter 402) noted the exhibited controls demonstrated an "*appropriate response to the future development of land within the activity centre.*" He argued that Council's preferred DDO16 be rejected as:

... it could not properly be submitted that the (council's) preferred DDO is supported by a strong strategic foundation. It is based on the Ethos Urban modelling and the submissions received from members of the community. Nothing more.

QPHPTG and Save Queens Parade considered that building height in this Precinct should be mandated at no higher than 28 metres. This opinion was supported by Submitter 86.

Mr Pitt referred to VCAT findings in *TLC Aged Care v Yarra CC [2015] VCAT1601*. The submitter considered this decision found the recently constructed development to the immediate north of Dummett Crescent set a benchmark for future development and development to the south west of that site should provide a transition towards the lower heritage buildings. He suggested that the preferred character objectives were best served by a pronounced height change at the boundary between Precincts 5A and 5B and suggested that the maximum street wall height should apply to laneways as well.

Submitters (including S147 and S160) contended that proposed height controls in Precinct 5 would adversely impact the heritage values of three VHR sites (i.e. Former UK Hotel, Clifton Motors Garage, ANZ Bank). Mr Gobbo considered the proposed Precinct 5B height was too restrictive and suggested lots immediately adjacent the former Clifton Motors Garage site

not be subject to a mandatory limit of 18 metres, instead suggesting a case by case consideration of the planning merits of each proposal. Submitter 98 requested that maximum heights in the Precinct be no more than 14 storeys while Submitter 86 suggested a ‘graduated plateau model’ with mandatory height of 43 metres in Precinct 5C and lower heights within Precinct 5B (28 metres mandatory) down to a mandatory height of 11 metres in Precinct 5A.

In its closing submission, Council agreed with Mr Gard’ner that street wall heights in Precinct 5A should be no higher than the height of the eaves of the former UK Hotel. Council further agreed in Precinct 5B, the street wall height of new development should be no higher than the parapet height of the former Clifton Motor Garage and the eaves line of the former UK Hotel building height. Council acknowledged the sensitivity of the former Clifton Motors Garage site in Precinct 5B by recommending a parapet height control along the Queens Parade frontage in Precinct 5B.

In closing, Council urged against increasing the discretionary height to facilitate a landmark building at 267-271 Queens Parade (as requested by Mr O’Farrell). Council considered this would have the effect of facilitating taller development across Precinct 5C. It argued this would diminish the potential for any one building to be a landmark distinguished by its height.

(ii) Discussion

The Panel agrees with the evidence of both Ms Heggen and Mr Gard’ner that building height transition and new built form proposed behind and above the retained former Clifton Motor Garage is an important consideration. The Panel supports Council’s design requirements and agrees a mandatory building height of 18 metres for 201-215 Queens Parade and a preferred 28 metre building height for the remainder of Precinct 5B is appropriate. For similar reasons the Panel supports the maximum building height of 11 metres proposed for Precinct 5A.

The Panel considers that a new building at 267-271 Queens Parade has the potential to make a significant contribution to breaking up the mass of taller buildings in Precinct 5C. In this regard, the Panel considers the preferred height of 49 metres as exhibited is appropriate within this location as it is less constrained by heritage and sensitive amenity interface. The Panel agrees with the submission of Mr O’Farrell and the evidence of Ms Bell that Council has not strategically justified the reduction in overall height from 49 metres to 43 metres. The Panel does not agree with the submission of Mr O’Farrell, however, that this site should be designated as ‘landmark building’, although it supports the principle of buildings stepping up across Precinct 5 to reach this height.

However, the Panel agrees with concerns raised by Mr Parsons and other submitters that a poorly designed building distinguished just by height alone could diminish the character of the Precinct. Whereas a building of exceptional design standards would contribute to both its immediate surroundings and the character of the wider QPAC. The Panel is satisfied that specific design requirements in the preferred DDO16 adequately address this matter.

The Panel does not agree with Mr Gobbo’s contention that the preferred DDO16 is not supported by a strong strategic foundation. The Panel has commented on the extent of

strategic work that underpins the Amendment and accepts this work provides a firm strategic foundation for DDO16.

The Panel agrees with the evidence of Mr Gard'her that built form controls as applied under the preferred DDO16 for the land adjoining both the former UK Hotel and the Clifton Motors Garage ensures the prominence of these local landmarks is retained in this Precinct and QPAC more generally.

In relation to street wall height, the Panel acknowledges that changes in materiality and detail can contribute to creating an active and pleasant streetscape that can be read as 'human scale'. However, these measures alone may not achieve what is needed to adequately ensure the immediate street front is not overwhelmed by the presence of the building above it. Equally, a stepped backed form will not by itself create a pleasant streetscape. Human scale requires these to be considered in concert, particularly for buildings of this scale.

(iii) Findings

The Panel finds that:

- The height in Precinct 5C be 49 metres preferred.
- All other building and street wall heights be retained and included as shown in Appendix E.

9.3 Street, upper level, side and rear boundary setback

(i) Submissions and evidence

The exhibited, preferred and final position of Council with regard to street, upper level and rear boundary setbacks for Precinct 5 is included as Appendix D.

The key issues to be resolved in relation to setbacks in Precinct 5 are:

- preferred upper level setbacks
- DDO16 provisions for VHR Listed places
- wind effects created by new development
- setbacks between habitable and non-habitable room windows for side and rear boundaries
- activation of Dummett Crescent.

Council's position required different metrics for upper level setbacks in response to the sensitivity of the location within this Precinct. It submitted that a mandatory minimum of eight metre setbacks would ensure adequate separation of development from the VHR listed former Clifton Motors Garage site on specified adjacent lots in Precinct 5B. Elsewhere in Precinct 5B and throughout Precinct 5C, the setbacks proposed were a discretionary six metres.

Council submitted that development in this Precinct should avoid creating adverse wind effects on the public realm. Council did not call any specific evidence on this matter¹⁰.

In relation to side and rear setbacks, Council proposed metrics that distinguished between accommodated habitable room windows (setback 4.5 metres from the shared boundary) and non-habitable room windows (setback three metres from the shared boundary).

Council submitted that street activation in Dummett Crescent, including retaining light and amenity to this street were important design objectives included in the preferred DDO16 and required in this Precinct.

In his evidence, Mr Parsons questioned the distinction proposed between accommodated habitable room windows and non-habitable room windows. He recommended a standard 4.5 metre preferred upper setback, whatever the window use. He suggested that uses change over time and offices require as much amenity as apartments (particularly daylight) and the extra height in Precincts 5B and 5C demand even greater visual separation.

In response to a question from the Panel, Mr Parsons stated "*a volume break is essential*" to ensure a passer-by would experience buildings being of human scale. This view was shared by QPHPTG (S405) and Save Queens Parade (S86) who suggested this setback should be mandatory.

Mr Parsons reiterated his view that a six metre mandatory upper level set back was required in order to distinguish between the immediate street side frontage and development above that to ensure a human scale was achieved. In response to cross examination from Mr O'Farrell, Mr Parsons stated that upper level setbacks would ameliorate wind tunnel effects, break up building mass and reveal a greater area of sky than could be achieved by relying solely on a difference of material or surface treatment.

Mr Gard'ner stated the recommended six metre upper level setback should be applied consistently within Precincts 5A and 5B. In Precinct 5B, he recommended an eight metre upper level setback to adequately distinguish the former Clifton Motors Garage building from its immediate surroundings.

On the issue of wind effects, Mr O'Farrell was critical of Council's submission. He submitted that design requirements at Clauses 2.9.5 and 5 should include the word 'unreasonable' when referring to wind effects. Mr Gobbo raised similar concerns to Mr O'Farrell, noting there had been no testing and analysis provided by Council. Submitter 145 agreed with Mr O'Farrell and Mr Gobbo, suggesting that the DDO16 design requirement at Clause at 2.9.5 be amended to include the word 'unreasonable' to ensure no adverse wind effects were created by new tower development onto the public realm.

Mr O'Farrell questioned the evidence of Mr Parsons on matters of amenity and wind effects as they applied to this Precinct and submitted a number of wording changes to the preferred DDO16 (Document 124).

¹⁰ Document 23, letter dated 9 August 2019 from Mr Eaddy of MEL Consultants Pty Ltd forming part of Council's submission.

Mr O'Farrell relied on evidence from Ms Bell who supported development of a substantial tower form being the tallest point in Precinct 5C. Her evidence was that appropriate human scale could be achieved for new development in the Precinct using materiality and detail. She recommended a maximum eight to nine metre wall height, with zero metre upper level setbacks. Ms Bell was satisfied a tower form in this Precinct would be capable of delivering "*a skyline projection that creates variation and interest*" and the 49 metre exhibited height would allow for an appropriate transition to the former UK Hotel.

Mr Gobbo submitted that it was important that any design requirements or controls in DDO16 for Precinct 5 allows for flexibility, noting the Executive Director, Heritage Victoria, "*has the ability to consider the built form that is appropriate on land adjacent a VHR Listed building*".

Submitter 145 stated he supported upper level setbacks being consistently applied and maintain a six metre setback, particularly where Dummett Crescent was at its narrowest. Both Mr Gobbo and Mr O'Farrell considered the proposed setbacks in Precinct 5B were too restrictive.

Council's Part C submission clarified its position with regard to the proposed requirements as being a mandatory minimum eight metre upper level setback for 201-215 Queens Parade and a preferred six metre upper level setbacks to Dummett Crescent.

Council did not agree with Mr Parsons' suggestion that the side and rear setbacks should be a minimum of 4.5 metres from a shared boundary, irrespective of whether the windows in the wall are for habitable or other rooms. In response to a question from the Panel, Ms Brennan stated that this control would be unnecessarily restrictive. She added that the setbacks proposed in the Part C DDO16 would achieve adequate separation.

Council agreed street height provisions should apply to laneways to ensure built form did not "*overwhelm or enclose the street*". Council accepted the preferred DDO16 was not clear about what was intended with regard to the street wall height along Dummett Crescent to the east of 215 Queens Parade. To address this, Council proposed a mandatory maximum street wall height along Dummett Crescent to match the parapet height of former Clifton Motor Garage for eight metres, then rising to a maximum preferred street wall height of 11 metres, with a preferred six metre upper level setback for development above the street wall. Council considered an 11 metre maximum street wall height would ensure that the street wall along Dummett Crescent retained light and amenity.

(ii) Discussion

In relation to upper level setbacks, the Panel concurs with the evidence of Ms Bell in so much that changes in materiality and detail can contribute to creating an active and pleasant streetscape that can be read as human scale. However, in agreement with the evidence of Mr Parsons, the Panel considers these measures alone may not be adequate.

The Panel agrees with Mr Parsons that street level comfort is an important issue within the Precinct. The Panel notes that consideration of likely wind around any proposed buildings is a relevant matter in determining whether a development will achieve an adequate standard of design that results in a pleasant place within which to walk and navigate.

The Panel notes that Document 23 submitted by Council provided some basic wind commentary which indicated a proposed street wall of 35 metres could create undesirable wind effects. This document however was provided as a letter partway through the Hearing and was not able be tested as evidence. The Panel agrees with submissions from Mr O'Farrell and Mr Gobbo about the submission of this letter and accordingly, gives this letter no weight. The Panel is satisfied the Decision Guidelines in DDO16 relating to wind effects can be appropriately addressed through a permit application process.

The Panel considers that the narrow width and alignment of Dummett Close, combined with the potential for taller buildings either side of the laneway, could diminish its legibility within the Precinct. The Panel agrees with the final controls proposed by Council that establishing upper level setbacks on Dummett Crescent will assist in opening built form to the sky, thereby allowing the Crescent's presence to be more easily read in the surrounding built form.

In relation to side and rear setbacks and the suggestion of Mr Parsons for a standard 4.5 metre setback from a shared property boundary, the Panel agrees this will achieve greater separation of built form. However, the Panel considers the final position of Council on this matter achieves adequate separation and the additional impost on what are often narrow lots is unwarranted.

The Panel agrees that establishing a street wall height for Dummett Crescent, in conjunction with the recommended setbacks will ensure this designated laneway will have a stronger visual presence and will not be overwhelmed by the adjacent buildings. The Panel therefore supports the proposed design changes set out in Council's Part C Submission. These include treatments for the mandatory maximum street wall heights at 201-215 Queens Parade matching the parapet height of the former Clifton Motors Garage and eaves of the former UK Hotel and a mandatory maximum street wall height along Dummett Crescent matching the parapet height of the former Clifton Motors Garage building for eight metres, then rising to a height of 11 metres, is appropriate.

(iii) Findings

The Panel finds that:

- All street, upper level, side and rear boundary setback be retained and included as included in Appendix E.

9.4 Recommendations

The Panel recommends:

- Modify Table 5 in Design and Development Overlay 16 to show the building height in Precinct 5C be 49 metres preferred.

10 Heritage Overlay

The Heritage Analysis describes the heritage attributes in Precincts 1 to 5. The Panel considers the Heritage Analysis provides a useful description of key built form and heritage fabric that distinguishes each Precinct.

The Panel is satisfied the appropriate level of heritage analysis and comparative assessment has been undertaken by Council, noting:

- a precinct by precinct analysis of heritage values by reference to existing heritage protection (Heritage Analysis)
- an assessment of existing planning controls, key views, significant streetscapes, and potential future character considerations
- specific built form impact assessment through 3D modelling by Ethos Urban including height, street wall height, upper level setbacks and sensitive heritage interfaces with an explanatory rationale for each requirement
- the evidence of Mr Gard'ner
- an independent peer review by Mr Helms assessing whether DDO16 should be supported and implemented into the Scheme.

The Panel notes precinct and individual heritage overlays include the required Statements of Significance addressing ‘What is significant?’, ‘How is it significant?’ and ‘Why is it significant?’ and comparative analysis sought under PPN01.

10.1 Application and removal of the Heritage Overlay

(i) 57-87 Queens Parade (HO496)

Issue

The issue is whether the removal of HO317 and application of a site specific HO496 over the entire St Johns Church complex at 57-87 Queens Parade is appropriate.

Submissions and evidence

Council’s Heritage Analysis identified the St John the Baptist Church Complex as “*highly significant*” within the locality. The Heritage Analysis noted the landmark status of the Church belfry and spire is recognised in Clause 22.03 (Landmarks and Tall Structures).

Council recommended the entire Church complex be included within HO496 in recognition of its individual significance. This included internal heritage controls to manage the pipe organ. Council submitted Appendix 8 should be updated to reflect these changes.

Council prepared the required heritage citation with detailed recommendations for the site, submitting the citation should be included within the *Yarra High Streets: Statements of Significance*, a Reference Document at Clause 22.02.

In its closing Part C submission, Council advised the application of HO496 and its Statement of Significance over the site was not contested, and accordingly, requested Panel support the changes as exhibited.

Discussion and findings

The Panel notes that part of the St Johns Church complex (including the grounds, residence and presbytery) is currently subject to HO317 (Clifton Hill Western Precinct). Amendment C231 proposes to remove this precinct-based overlay and replace it with the individually significant HO496. The heritage place would comprise the church, school, presbytery, former hall/shops, former presbytery and the Queens Parade boundary fence to the church and presbytery.

No submissions opposed the removal of HO317 and application of the individually significant HO496 over this site. The Panel agrees with the findings of the Heritage Analysis and is satisfied the inclusion of a site-specific heritage overlay for this significant heritage place, as exhibited, is appropriate and satisfies PPN01.

The Panel is satisfied the new Statement of Significance accompanying HO496 is consistent with PPN01 and underpinned by the Heritage Analysis. The Statement identifies the entire complex as having local historical, architectural and aesthetic significance based on an assessment against relevant HERCON criteria.

The Panel notes an inconsistency between the new Statement of Significance which records the entire heritage place as 61-87 Queens Parade, and the exhibited documents which described the site as 57-87 Queens Parade. The Panel recommends Council correct the street address (as required) on the Statement of Significance before final approval of Amendment C231.

The Panel supports changes to Appendix 8 as exhibited (subject to correction of the site address).

(ii) 205-211 Queens Parade (HO504)

Issue

The issue is whether the application of a site specific HO504 over the former Clifton Motors Garage at 205-211 Queens Parade is appropriate¹¹.

Submissions and evidence

The Heritage Analysis noted the former Clifton Motors Garage building was listed as 'individually significant' in HO330. The Heritage Analysis observed that this building had very strong architectural similarities with the nearby Former UK Hotel, which has VHR listing.

¹¹ Council advised the Clifton Motors Garage Building is now included on Victoria's Heritage Register. VHR H2380, introduced on 14 June 2018) identifies the subject building as having State Cultural Heritage Significance (see also Documents 33 and 122). A permit has also been recently issued for this site by the Executive Director of Heritage Victoria (P28936, issued 15 February 2019) for a mixed-use development at ground level including an 11-storey apartment building above. Council submits there is no need for Amendment C231 to remove the former Clifton Motors Garage from HO330 at this stage. The remainder of the land (i.e. 201-203 and 213-217 Queens Parade and 10-12 Dummett Crescent) will also remain within HO330. The Council advised there was an error in the Explanatory Report that indicated these sites would be removed from HO330.

The Heritage Analysis assessed the former Clifton Motors Building was individually significant as an important ‘Moderne’ example of a motor garage. It recommended removal of the property from the precinct-based HO330 and inclusion in its own individually significant overlay, with an accompanying new Statement of Significance. A new heritage citation (HO504) was prepared and exhibited, and referenced at Appendix 8.

Submitter 402 (represented by Mr Gobbo) who informed the Panel it was the owner of the former Clifton Motors Garage building, as well adjoining sites at 201-3 and 213-215 Queens Parade and land to the rear of the former Garage building at 6-12 Dummett Crescent. Mr Gobbo advised that a permit (P28936) was granted on 15 February 2019 by Heritage Victoria for the portion of its site that included the former Garage building, under section 102 of the *Heritage Act 2017* for a mixed-use development including retention of heritage façade, garage/showroom and first-floor residence, with new 11 storey residential building above and three level basement below.

He noted that works on this portion of the site were therefore considered exempt from further heritage considerations for the registered building.

Mr Gobbo advised that planning permit application PL16-0923 was lodged with Council on 11 October 2016. He advised this was a larger scaled development proposal, but one that retained the former Garage building (Document 122). This application was ultimately refused by Council and an Application for Review was lodged by the owner with VCAT in January 2019.

Ms Heggen on behalf of Submitter 401 (owner and operator of Clifton Views, a 10-storey aged care facility at 217 Queens Parade) confirmed the former Garage building was listed on the VHR as a place of State Cultural Heritage Significance (VHR No. H2380). She stated part of her written evidence: “*The potential for ongoing built form change within the Queens Parade study area generally and the activity centre in particular underscores the strategic merit for built form controls as well as improved and clarified heritage overlay provisions*”.

In its Part C submission, Council noted the individual application of HO504 and accompanying Statement of Significance for the site was not contested.

Discussion and findings

The Panel notes there were no specific submissions opposing the removal of HO330 and replacing with an individually significant HO504.

The Panel acknowledges Mr Gobbo was generally satisfied that the Heritage Analysis was considered as “*robust and comprehensive*” strategic work.

The Panel is satisfied the new Statement of Significance accompanying HO504 is consistent with PPN01, being based on the heritage work and analysis undertaken as part of the Heritage Analysis. The Statement identifies the former Garage building has having “*local historical and architectural significance to the City of Yarra*” which was based on an analysis against relevant HERCON criteria.

The Panel acknowledges submissions questioning whether the new HO504 was still appropriate, given the site was now VHR H2380 listed. The Panel notes commentary in the Heritage Analysis and Appendix 8 noted if the former Garage was eventually included on the

VHR (as it now is), it would ‘automatically’ be included within its own Heritage Overlay and be excluded from HO330.

At the time of writing this report, the Panel notes the removal of the existing precinct overlay HO330 had not eventuated under the recently gazetted Amendment C267.

Nevertheless, the Panel concludes this matter is more about timing. The Panel acknowledges it is not unusual to have a heritage place identified as having State and local significance. The Panel considers the inclusion of the former Garage site under HO504 remains appropriate.

It has reviewed the new Statement of Significance and considers this is reflective of its heritage significance and consistent with PPN01. Amendments to Appendix 8 as exhibited are considered satisfactory and appropriate.

The Panel finds that:

- Application of the site-specific HO504 over the former Clifton Motors Garage building, with an individually significant Statement of Significance as exhibited, is appropriate and consistent with PPN01.

(iii) 472-484 Napier Street (HO498)

Issue

The issue is whether the application of a site specific HO498 over the row of Victorian Terraces (known as the ‘Elizabeth Terraces’) located at 472-484 Napier Street is appropriate.

Submissions and evidence

The Heritage Analysis noted the row of terraced houses at 472-484 Napier Street were highly intact. Their heritage significance was assessed concluding that each of the terrace houses warranted inclusion within the overlay. The Heritage Analysis recommended a new citation be prepared for the place to be included within the *Yarra High Streets: Statements of Significance* and Appendix 8 be updated to reflect this change.

Council submitted that application of HO498 and the accompanying Statement of Significance for Elizabeth Terraces was not contested and requested the Panel support the changes for this heritage place as exhibited.

Discussion and findings

The Panel observes the row of attached Victorian Terraces display a high level of intactness and built form consistency to Napier Street. This includes the original heritage form of the houses, materials and detailing, all of which display a high level of integrity to their original Victorian Italianate style and period. The houses include original front fences, prominent balcony and verandah forms and gates to the street.

The Panel supports the inclusion of the site-specific HO498 over the row of attached Victorian Terraces is appropriate.

The Panel is satisfied the new Statement of Significance accompanying HO498 is consistent with PPN01. The Statement identifies the terrace houses as having “*local architectural and aesthetic significance to the City of Yarra*”, based on a detailed analysis carried out as part of

the Heritage Analysis and against relevant HERCON criteria. Appendix 8 is to be updated accordingly to reflect these changes.

The Panel finds that:

- Application of a site-specific HO498 over the row of terrace houses known as 'Elizabeth Terraces', including the terrace house at 472 Napier Street, with an individually significant Statement of Significance, as exhibited, is appropriate and consistent with PPN01.

(iv) 26-52 and 58 Queens Parade

Issue

The issue is whether the application of a site specific HO327 over the full extent of the façade of the former K.G. Luke factory is appropriate. In addition, whether the application of HO327 to the rear of 26-52 Queens Parade and graded 'not contributory' in Appendix 8 and removal of 58 Queens Parade from HO327 is appropriate.

Submissions and evidence

The Heritage Analysis reassessed the heritage significance of the complete façade of the former K.G. Luke factory at 26 Queens Parade. The Heritage Analysis and associated assessment identified the former factory located in Precinct 2A was only partly covered by HO327. It noted approximately two-thirds of the Art Deco façade and associated factory buildings were included in the HO.

The Analysis found that HO327 should be extended to cover the Art Deco façade and associated showroom and factory buildings across the entire former factory site. It recommended that the heritage citation prepared for the place be included within the *Yarra High Streets: Statements of Significance* at Clause 22.02 and Appendix 8 be updated to reflect this change.

The Heritage Analysis identified that the rear of 26-52 Queens Parade should be included into HO327 and graded 'not contributory'. Further, 58 Queens Parade should be removed from this overlay as the site (formerly part of the K.G. Luke factory complex) had been redeveloped as a five storey apartment building and be removed from Appendix 8.

There were no contesting submissions to the expansion of the HO or associated overlay changes and gradings proposed.

In its Part C submission, Council contended the application of HO327 to the entire façade of the K.G. Luke factory building was appropriate and requested the Panel support the changes for this heritage place as exhibited.

Discussion and findings

The Panel is satisfied the application of HO327 over the entire façade of the former K.G. Luke factory building, as exhibited is appropriate and satisfies PPN01. It notes the Statement of Significance identifies the former factory and showrooms are of local historical and architectural significance.

The Panel supports the additional changes to the rear of 26-52 Queens Parade to be included into HO327 and graded ‘not contributory’ and the removal of 58 Queens Parade from HO327 and Appendix for the reasons stated in the Heritage Analysis.

The Panel finds that:

- Application of HO327 over the entire heritage façade of the former K.G. Luke factory building, as exhibited, is appropriate and consistent with PPN01.
- Application of the rear of 26-52 Queens Parade into HO327 and graded as ‘not contributory’ and removal of 58 Queens Parade from HO327 and Appendix 8 is appropriate.

(v) Raines Reserve (HO330)

Issue

The issue is whether the application of HO330 over the whole of Raines Reserve is appropriate.

Submissions and evidence

The Heritage Analysis recommended the current boundary of HO330 be extended over the full extent of Raines Reserve (identified as a contributory element within HO330). The Analysis noted the Reserve was a “*turn of the century public reserve that retained its original extent and layout*”, making it appropriate for the Reserve to be included in HO330.

There were no contesting submissions to this matter.

Discussion and findings

The Panel is satisfied that the extension of the boundary of HO330 to cover the entire Raines Reserve, as exhibited is appropriate and satisfies PPN01. It agrees with Council that inclusion of the Reserve into HO330 is consistent with and reflective of a key element identified in the Statement of Significance that contributes and links to the significance of the heritage precinct, that being:

The wide, open boulevard character with associated landscaping (including Raines Reserve, the planted medians, bluestone pitched road paving, crossings, stone kerbs and channels, and asphalt paved footpaths).

The Panel finds that:

- Application of HO330 over the whole of Raines Reserve as exhibited is appropriate and consistent with PPN01.
- A correction is required to the spelling of the Reserve in Appendix 8 (from ‘Rains’ to ‘Raines’).

(vi) 390A and rear of 304, 312 and 316 Queens Parade

Issue

The issue is whether the removal of the properties located at 390A Queens Parade and the rear of 304, 312 and 316 Queens Parade from HO327 and inclusion of these properties into HO330 is appropriate.

Submissions and evidence

The Heritage Analysis found that 390A Queens Parade and the rear of 304, 312 and 316 Queens Parade contain a variety of utilitarian structures including former stables, garages and a substation that was identified as formerly used as a warehouse. These properties and associated structures are currently included in HO327. Following a review of these properties, it was recommended that these properties be removed from HO327 and be included within the boundary of HO330.

Historical research undertaken as part of the Heritage Analysis indicated the buildings at the rear of Queens Parade (304, 312 and 316) had at some point serviced properties fronting Queens Parade. Council noted that some of these buildings included signs that indicated they were owned/occupied by the corresponding properties fronting Queens Parade. Further review of 390A Queens Parade indicated this area appeared to have been developed to serve the adjacent properties, providing land for stables and fenced areas with access by the adjacent laneways.

Given this historical context, Council considered it more appropriate to include these identified properties within HO330, rather than remaining in HO327.

The evidence of Mr Gard'ner supported the recommendations of the Heritage Analysis. Submitters 95 and 298 supported the inclusion of 390A Queens Parade into HO330.

There were no submissions contesting the change of the HO precincts for these properties.

Discussion and findings

The Panel is satisfied the removal of properties at 390A Queens Parade and the rear of 304, 312 and 316 Queens Parade from HO327 and including them within HO330 as exhibited is appropriate. The Panel considers this is consistent with the findings of the historical research and physical setting of these properties established by the Heritage Analysis. It satisfies PPN01 in that it encourages placing heritage sites into associated heritage precincts where historical and physical connections have been clearly identified.

The Panel finds that:

- Removal of 390A and the rear of 304, 312 and 316 from HO327 and including the properties within HO330 as exhibited is appropriate and consistent with PPN01.

(vii) 496-500 Brunswick Street

The issue is whether the removal of 496-500 Brunswick Street from HO327 is appropriate.

The Heritage Analysis noted 496-500 Brunswick Street was not in HO327 and had recently been redeveloped as a residential infill site. There were no submissions contesting this change.

The Panel agrees with Council that 496-500 Brunswick Street should be removed as it does not contain any significant heritage fabric or heritage values.

The Panel finds that:

- Removal of 496-500 Brunswick Street from HO327 is appropriate.

10.2 Updated Incorporated Document

(i) Background and Overview

Council requested that the Panel support the revised Appendix 8 as an Incorporated Document in the Scheme¹². This document lists the heritage status of all properties within Yarra by HO Number. Levels of significance are assessed against the following grading categories:

Table 8: Heritage Significance Gradings – Appendix 8

Significance	Definition
Not assessed	Insufficient data to allow an assessment from the public domain
Contributory	Contributory to identified cultural values of the Heritage Overlay Area as stated in the Statement of Significance
Not Contributory	Not contributory to identified cultural values of the Heritage Overlay Area as stated in the Statement of Significance
Individually significant	Aesthetically, historically, scientifically, and/or socially significant at the Local level and contributory or complementary to the Heritage Overlay Area
Victorian Heritage Register	On the Victorian Heritage Register as aesthetically, historically, scientifically, and/or socially significant at the State level and contributory or complementary to the Heritage Overlay Area

The Panel found Appendix 8 difficult to navigate and considers it to be somewhat outdated in its current formatting and layout. It is not user friendly, particularly for those without ready access to a computer. The Panel notes there were a number of corrections and editing/formatting that are required. Generally, these appear to have been addressed by the recent gazettal of Amendment C267. However, the Panel considers these matters should have been addressed and corrected before this Amendment was exhibited. The Panel encourages Council to address these issues as part of its ongoing review of its heritage controls.

Council relied on the evidence of Mr Gard’ner and submitted the changes to the gradings in Appendix 8 should be supported, noting he was extensively cross-examined about this and he did not alter his opinion on the proposed gradings of various buildings.

The Panel provides its assessment on the exhibited heritage grading matters below.

(ii) 662 Smith Street (former Fire Station)

Issue

The issue is whether the change of heritage grading of this property from ‘contributory’ to ‘individually significant’ is appropriate.

¹² The *City of Yarra Review of Heritage Overlay Areas 2007, Appendix 8*, revised December 2018, is an Incorporated Document in the Yarra Planning Scheme, included within the Schedule to Clause 72.04.

Submissions and evidence

The Heritage Analysis identified the following elements that contributed to the significance of this heritage place:

- the building's original external form, materials and detailing
- the building's high level of integrity to its original design
- later alterations and additions are not significant.

The Statement of Significance identified the former Fire Station, 662 Smith Street, Clifton Hill is of local historical and architectural significance to the City of Yarra.

The evidence of Mr Gard'ner supported the proposed change in heritage grading.

There were no submissions contesting the change in grading to this property.

Discussion and findings

The Panel agrees with Council that the grading of the former Fire Station, 662 Smith Street from 'Contributory' to 'Individually Significant' is appropriate. The Panel observes this building demonstrates a high degree of integrity to the Victorian period in fabric, form and detail when viewed from the public realm. Some alterations have been undertaken to the building (including rear) but the Panel considers these do not diminish the overall intactness of the built form and appearance as an example of a Victorian fire station. The Panel is satisfied the Statement of Significance to Clause 22.02 (*Yarra High Streets: Statements of Significance*, October 2017 (updated November 2017) accords with PPN01.

The Panel finds that:

- Grading the former Fire Station at 662 Smith Street to 'Individually Significant' and placing this property with its own Statement of Significance within HO317 as exhibited, is appropriate and consistent with PPN01.

(iii) 7-11 Queens Parade

Issue

The issue is whether the change of heritage grading of this property from 'contributory' to 'not contributory' is appropriate.

Submissions and evidence

The properties at 7-11 Queens Parade are currently graded as 'contributory' in HO317 (Clifton Hill Western Precinct). The Heritage Analysis provides the following assessment of these buildings:

... 7 Queens Parade does not readily accord with the identified significance of the precinct. It does not date from the key periods of significance (Victorian and Edwardian) and is not a "well preserved" inter-war building, with its façade having been substantially altered since the taking of the aerial photograph in Figure 6.

... 9 and 11 Queens Parade broadly reflect the key development period and architectural form of the precinct's identified significance; however, they are isolated Victorian buildings within an immediate context of 'not-contributory' buildings.

... this section of HO317 fronting Queens Parade is heavily dominated by buildings identified as 'not-contributory' and the contribution nos. 9 and 11 make to the Clifton Hill Western Precinct is very marginal.

The evidence of Mr Gard'ner supported the proposed change in heritage grading for these properties.

Submitter 199 did not agree with this assessment. Acknowledging the subject buildings were physically separated by other 'non contributory' buildings, this submitter contended the built form at 9-11 Queens Parade still reads as part of HO317. Submitter 160A agreed with Submitter 199, stating:

We are also concerned about the removal of the 'contributory' heritage status of the buildings at 9-11 Queens Parade. These buildings are clearly contributory to the heritage significance of the precinct HO317 Western Clifton Hill, although they have been altered at ground level. To remove their heritage protection, apparently so that they can be demolished to allow for development, sets an alarming precedent for heritage in the City of Yarra.

Discussion and findings

The Panel accepts a detailed assessment has been undertaken of these properties through the Heritage Analysis.

The Panel considers that properties must demonstrate a clear connection with the cultural and historical values associated with and identified for the heritage precinct, to be graded as 'contributory' within HO317. The remaining built form should be able to demonstrate key contributory elements within the existing heritage fabric, as identified and documented within the relevant Statement of Significance.

The Panel considers the subject buildings do not clearly demonstrate physical representation of the key Victorian or Edwardian periods for these buildings; some being substantially altered in their presentation to the street and public realm. During its inspection of the area, the Panel observed these buildings sit in relative isolation within this heritage precinct, and within a street section that contains a varied and altered streetscape character. The Panel agrees with Council's assessment that the buildings do not read as part of this particular heritage precinct and therefore do not form a contributory function.

The Panel finds that:

- Grading the buildings at 7-11 Queens Parade to 'not contributory' within HO317 as exhibited, is appropriate and consistent with PPN01.

(iv) 137 Queens Parade

The issue is whether the change of heritage grading of this property from 'contributory' to 'not contributory' is appropriate.

The Heritage Analysis identified 137 Queens Parade as a vacant site. This followed fire damage to the original building on this property.

The Panel agrees with Council that the vacant site should be identified as 'not contributory' within HO330.

The Panel finds that:

- Grading of 137 Queens Parade to 'not contributory' within HO330 as exhibited, is appropriate and consistent with PPN01.

(v) Rear of 304, 312 and 316 Queens Parade

Issue

The issue is whether the change of heritage grading of the rear of 304 Queens Parade from 'ungraded' to 'not contributory', the rear of 312 Queens Parade from 'ungraded' to 'contributory' and the rear of 316 Queens Parade from 'ungraded' to 'not contributory' within HO330 is appropriate.

Submissions and evidence

These properties are currently within HO327. The Heritage Analysis considered these properties related to properties that had a frontage to Queens Parade and therefore recommended they be included in HO330.

The Heritage Analysis identified these properties appeared to be constructed at various dates, noting:

- built form includes a cream brick garage at the east end (rear of 316)
- the central property (rear of 312) includes an early two-storey brick and timber stables and adjacent single storey brick building that are no longer in use
- the west end (rear of 304) is a large red brick building occupied by a business.

The Heritage Analysis found the rear of 304 Queens Parade retained some brickwork that dated from late nineteenth century. However, this had been incorporated with a later twentieth century structure and could no longer be easily identified with earlier heritage fabric. The Heritage Analysis noted the rear of 312 Queens Parade retained strong physical connection. The building footprint was consistent with the 1904 MMBW plan of this area. The rear of 316 Queens Parade consisted of a cream brick garage (circa 1950's/60's) that was identified as not having heritage value.

The evidence of Mr Gard'ner supported the various gradings as recommended in the Heritage Analysis. No other submissions or evidence contested the proposed heritage gradings for these properties.

Discussion and findings

The Panel's site inspection confirmed the varied conditions of the built form located at the rear of these properties as noted in the Heritage Analysis. The Panel accepts the findings and heritage gradings as recommended.

The Panel finds that:

- Gradings of the rear of 304, 312 and 316 Queens Parade within HO330 as exhibited, is appropriate and consistent with PPN01.

(vi) 350 Queens Parade

The issue is whether the change of heritage grading of this property at 350 Queens Parade from 'ungraded' to 'contributory' is appropriate.

350 Queens Parade is one of a group of four two storey terraced shops/residences in this part of Queens Parade. It is currently listed as 'ungraded' in HO330. The Heritage Analysis

identified that the absence of 350 Queens Parade from Appendix 8 appeared to be an error that required correction. The analysis noted:

As part of a consistent group of ‘contributory’ Victorian buildings within this highly intact heritage precinct, the property should also be identified as being ‘contributory’ to HO330.

Submitter 95 supported the Council’s findings and recommendation for this property.

The Panel supports the position of Council.

The Panel finds that:

- ‘Contributory’ grading of 350 Queens Parade within HO330 as exhibited is appropriate and consistent with PPN01.

(vii) 380-378 Queens Parade

The issue is whether the change of heritage grading of the rear of 380 Queens Parade from ‘ungraded’ to ‘not contributory’ is appropriate. In addition, whether the removal of 380-378 Queens Parade from HO327 and the inclusion of 380 Queens Parade into HO330 with a ‘contributory’ grading is appropriate.

The Heritage Analysis identified the site at the rear of 380 Queens Parade as vacant and used as an at-grade car park.

The Panel notes the Heritage Analysis observed the rear area of this property did not have any heritage value. There were no contesting submissions received.

The Panel finds that:

- The ‘not contributory’ grading of the rear of 380 Queens Parade within HO330 as exhibited, application of 380 Queens Parade into HO330 and graded as ‘contributory’ in Appendix 8 is appropriate and consistent with PPN01.

(viii) 390A Queens Parade

Issue

The issue is whether the change of heritage grading of the two-storey building in the north-east corner of 390A Queens Parade from ‘ungraded’ to ‘contributory’ and the heritage grading of all other buildings (except the two-storey building in the north-east corner) on the property from ‘ungraded’ to ‘not contributory’ is appropriate.

Submissions and evidence

The Heritage Analysis described this property and the built form as follows:

390A Queens Parade is a large parcel of land containing four discreet structures. Based on an analysis of the built fabric on the site and the historical plans and aerial, it is considered that the only largely intact building remaining is the two-storey substation in the northeast corner of the site. The brickwork indicates the building dates from the late nineteenth century, and although some original openings have been closed, the original form and fenestration pattern remain. This building is considered to contribute to the significance of the precinct.

The other buildings on the property are of more recent construction or have been substantially altered over time. They are not considered to contribute to the significance of the precinct.

Council considered it appropriate to regrade the two-storey building located in the north-east corner of the property to ‘contributory,’ with the remainder of the built form graded ‘not contributory’. The additional evidence of Mr Gard’ner supported these changes.

Submitter 95 considered all of the buildings at 390A Queens Parade were significant and warranted protection by grading the whole of the site to ‘contributory’. A detailed historical account of the property was provided with this submission which included details of ownership changes, including a number of eminent landowners within the area. Submitter 95 noted the associated historical uses of the various buildings not only included horse stabling, but also included evidence of a brick shop with eight rooms and bakery. In the submitter’s opinion, apart from the lower extension at the front of the building facing toward Queens Parade, the bakery still remained substantially intact and argued it “*should be protected and not be impinged upon by any inappropriate development around it*”.

Submitter 298 supported submitter 95 and noted the entire complex of buildings on the property aptly demonstrated the site’s historical industrial and commercial uses. The submitters referred to documents that demonstrated the manufacture of goods on that site were then on-sold through various shops and commercial premises located throughout the QPAC.

Submitter 298 supported the recommendations in the Heritage Analysis to designate the north-east corner building on this property as ‘contributory’. However, this submitter agreed with Submitter 95 that the remainder of the buildings on the property should be designated as ‘contributory’. In support of this, Submitter 298 stated:

So, it appears that the entire eastern end of the building on 390A (two storey and one storey) was constructed at the same time (prior to 1905) and was used as a bakehouse factory to produce baked goods which were then sold from the adjacent building with retail shop front at 392 Queens Parade.

Submitter 298 provided a detailed series of photographs that sought to demonstrate a high level of intactness and consistency in building style and form across the site. Despite noting painting of exposed brickwork and closed openings on some portions of these buildings, this submitter referred to similar brick patterns and fenestration details across the respective buildings. In the submitter’s view, this reflected the brickwork and fenestration of the ‘contributory’ graded building. Submitter 298 pointed to other building structures within the adjoining laneway (rear of 240 and 242 McKean Street) and questioned whether these structures could also have some historical and physical links with 390A Queens Parade.

Discussion and findings

The Panel notes the position of Council on this matter remained steadfast on the respective gradings between the various buildings on this property. This position was further supported by evidence from Mr Gard’ner. The Panel acknowledges Council’s position that other buildings on the property (apart from the north-east corner building) have been substantially altered or are of more recent construction.

Nevertheless, the Panel was impressed with the substantial historical research, documents, photographs and analysis that accompanied the verbal and written submissions on this place.

The Panel's inspection of this property found there was some remaining evidence of similar heritage fabric that could be observed in all of the buildings located on the site, not just the double storey-built form located in the north-east corner of the property. However, the Panel accepts there is physical evidence (as submitted by Council and in evidence from Mr Gard'ner) that these buildings have undergone considerable alterations over time. The Panel is therefore unable to establish with enough certainty, that the level of existing physical fabric of the other buildings on this property would warrant these buildings to be graded as 'contributory' as sought by some community submitters.

However, the Panel considers there is merit in Council undertaking further detailed assessment of this entire property and immediate surrounds, to consider whether other built forms or structures warrant a further regrading within this heritage precinct (HO330).

The Panel finds that:

- 'Contributory' grading of the north-east corner building at 390A Queens Parade and 'not contributory' to other buildings on the subject land within HO330 as exhibited, is appropriate and consistent with PPN01.

(ix) 402 Queens Parade

The issue is whether the change of heritage grading of this property from 'contributory' to 'not contributory' is appropriate.

It appears from Appendix 8 that the description has not been amended to reflect the proposed change in heritage grading described in the Explanatory Report of the Amendment.

The Panel was unable to locate specific references or evidence within the Heritage Analysis and written submissions to support this change. The Panel notes Appendix 8 still identified this property as 'shop and residence' and 'contributory' within HO330. Amendment C267 has not altered this description in Appendix 8.

The Panel is not able to make a finding on this matter.

(x) 88 Queens Parade and 32, 33 and 34 Jamieson Street

The issue is whether the change of heritage grading of these properties from 'ungraded' to 'not contributory' is appropriate.

The Heritage Analysis identified these properties are occupied by contemporary styled multi-unit residential development and recommended Appendix 8 be updated to reflect this on the basis these buildings do not contribute to the heritage values of HO327.

The Panel confirmed the contemporary development on this property and agrees with the assessment in the Heritage Analysis.

The Panel finds that:

- 'Not contributory' grading of the properties at 88 Queens Parade and 32, 33 and 34 Jamieson Street within HO327 as exhibited, is appropriate and consistent with PPN01.

(xi) Other matters

The Panel notes that a number of submitters sought to have additional places included in Appendix 8 as either new heritage gradings or corrections to existing gradings. The Panel notes in some cases, these places had been assessed in Council's Heritage Analysis or were addressed in the evidence of Mr Gard'ner. However, they were not included with the Explanatory Report of Amendment C231.

In its Part B Submission Council provided the following statement:

With regard to submissions that additional properties or places should be included within the Amendment area or within HO330, Council relies on the evidence of Mr Gard'ner and submits that the scope of the Amendment is appropriate.

These places are noted below:

- **15-33 and 41 Queens Parade:** raised by Collingwood Historical Society (S160)
- **Lot 1 on Title Plan TP806921:** the Heritage Analysis identified this site as a vacant parcel of land but was not raised by any submitters.
- **330A and 324 Queens Parade:** raised by Submitter 95.
- **193-197 Queens Parade:** raised by the 3068 Group Inc.
- **304-324 Queens Parade (Ryan's Buildings):** raised by various submitters.
- **Electrical substation (Northern side of Alexandra Parade/intersection with Queens Parade):** raised by Submitter 90.

As these places were not included with or exhibited with Amendment C231, the Panel makes no further comments on these matters.

Mayors Park: The 3068 Group Inc submitted that Mayors Park be included within HO330. Mayors Park is a triangular park that is zoned Public Park and Recreation Zone. The land is bound by Heidelberg Road to the northwest, Hoddle Street to the east and Turnbull Street to the southwest. The Heritage Analysis did not assess this site. The evidence of Mr Gard'ner advised that a full assessment with comparative analysis would be required to determine if this site was suitable for inclusion into HO330. The Panel agrees with the position of Council and Mr Gard'ner on this matter.

Internal Heritage Controls: The 3068 Group Inc. made submissions that internal controls should be considered for properties at 149, 151, 153, 157, 159-161, 167, 314, 370 and 398 Queens Parade. This was not a matter assessed by the Heritage Analysis. The evidence of Mr Gard'ner indicated it was not appropriate for internal controls to be applied through HO330. The Panel agrees that HO330 is a precinct-based overlay, and as such should not include internal based heritage controls.

Peer Review: Various submitters (including QPHPTG) sought a peer review of Appendix 8. The Panel notes Mr Helms' specific instructions from Council did not include this as a matter of his review. The Panel makes no comment on this matter.

10.3 Statements of Significance

Amendment C231 seeks to add a new Reference Document to Clause 22.02 titled "Yarra High Streets: Statements of Significance prepared by GJM Heritage, October 2017 (updated November 2017) (Appendix H)."

The Part C submission of Council stated the purpose of Appendix H was to update the relevant Statement of Significance for HO330 (Queens Parade) and to provide individual Statements of Significance for the properties graded ‘Individually Significant’ within HO330. Appendix H included Statements of Significance for ‘Individually Significant’ properties identified within the study area that were included in HO317 and HO327.

(i) Issue

The issue is whether the *Yarra High Streets: Statements of Significance* is appropriate as a Reference Document to Clause 22.02 of the Scheme.

(ii) Submissions and evidence

Council informed the Panel that all property owners were provided with written notification of the updated Statements of Significance on two occasions. Firstly, at exhibition and secondly when Council wrote to submitters and relevant land owners and occupiers in QPAC to advise them of Council’s decision to refer submissions to a Panel. However, Appendix H includes Statements of Significance for not just Queens Parade, but many other ‘high streets’ in Yarra. Council informed the Panel that other persons that may have an interest in other ‘high streets’ in Yarra may not have been notified of the new Statements of Significance as part of this Amendment.

To address this concern, Council advised the Panel it would not seek to include the whole of Appendix H (as exhibited) as a Reference Document to Clause 22.02. Council now seeks that the Panel recommend a new Reference Document to Clause 22.02 which comprises the Statements of Significance for HO330 and for individually significant places within HO330, HO317 and HO327 (Document 134).

Council noted the Statement of Significance for Queens Parade in Appendix H updates and differs from the other four Statements of Significance for Queens Parade, found in studies referenced in the Scheme, being:

- *North Fitzroy Conservation Study*, Jacob Lewis Vines Architects 1978
- *Collingwood Conservation Study*, Andrew Ward and Associates 1989
- *City of Yarra Heritage Review*, Volumes 1-4, Allom Lovell and Associates 1998
- *City of Yarra Review of Heritage Overlay Areas 2007* (Graeme Butler and Associates) [Appendix 7 includes Statements of Significance].

Council noted many submitters drew attention to the absence of text in the proposed Statement of Significance in Appendix H to the following effect: “*picturesque shop-row skyline, visible from across Queens Parade*”. These words are currently found within the *City of Yarra Review of Heritage Overlay Areas 2007* (Graeme Butler and Associates) but is not in the other three earlier Statements of Significance for Queens Parade.

Mr Gard’ner gave evidence on this issue and said:

... that the parapet forms, visible roof lines and chimneys do not need to be viewed against clear sky to retain the heritage significance of HO330.

It was his opinion that:

... the retention of the clear sky silhouette of the parapet line of the shop rows is not critical to retaining the significance of HO330, which will be maintained if new upper level built form provides a suitably recessive backdrop.

A number of submitters, including Submitter 160 did not agree with the evidence of Mr Gard'ner or the submission of Council about this. In particular, Submitter 160 highlighted that Yarra's heritage statement for HO330 included specific references to the "*exceptional vistas to fine commercial rows*" of shops and "*the picturesque shop-row skyline, visible from across Queens Parade*"¹³.

Council submitted that Mr Gard'ner thoroughly addressed this issue in his evidence and was cross-examined extensively by many submitters and noted that Mr Gard'ner did not change his opinion.

In its closing submission, Council maintained its original position. However, it agreed it would be appropriate to highlight the importance of maintaining 'original' street verandahs along Queens Parade within the revised Statement of Significance (HO330). Document 134 reflects the proposed additional change.

(iii) Discussions and findings

The Panel acknowledges Council did not support the inclusion of the words "*picturesque shop-row skyline, visible from across Queens Parade*" or similar into the final Appendix H (Statement of Significance HO330) that is now being sought as a Reference Document to Clause 22.02.

The Panel agrees with Council and Mr Gard'ner on the exclusion of the words "*picturesque shop-row skyline, visible from across Queens Parade*" within the revised HO330 Statement of Significance. The Panel considers these words are not required and may create unnecessary duplication between the Statement of Significance and Clause 22.02 provisions. The Panel considers this matter is adequately addressed under Clause 22.02-5.7.2 of the Scheme that requires all new built form within HO330 to:

- Respect the scale and form of the existing heritage place or contributory elements to the heritage place by setting back from the lower built form elements. Each higher element should be set further back from the lower heritage built form.
- Incorporate treatments which make them less apparent.

The Panel finds that:

- The revised Statement of Significance prepared as part of Appendix H, titled *Yarra High Streets: Statements of Significance by GJM Heritage, October 2017 (updated November 2017)* (Document 134) is appropriate to be included as a Reference Document to Clause 22.02 of the Yarra Planning Scheme.

¹³ Graeme Butler and Associates, 2007, 122

10.4 Recommendations

The Panel recommends:

- 2. Undertake further heritage assessment of the existing built form and associated structures located at 390A Queens Parade to establish whether other buildings and associated structures on this property would support or warrant a 'contributory' grading within the context of HO330.**
- 3. Correct the spelling of Raines Reserve (from 'Rains' to 'Raines') and correct the street numbering for the St Johns Church complex in Appendix 8.**

Appendix A Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Tim Beattie	2	Rodney & Rinske Pemberton
3	Jo Pollett	4	Carole & Mike Stingel
5	Jackie Van Vugt	6	Morgaine Seacrest
7	Frank Niall	8	Kevin Quin
9	Contour (Robert Kelderman)	10	Helen Holdsworth
11	Peter Egan	12	Barbara Selvay
13	Jeff McLauchlan	14	Tina Morgan-Payler
15	Sue Moses-Critchley	16	Elizabeth McCallum
17	Elizabeth Price	18	Richard Collins
19	Sue Broadway	20	Peter Nghiem
21	John Price	22	Heather Stock
23	Richard McIntosh	24	Julie Perrin
25	Shane & Elise Heslop	26	Cynthia Lui
27	David Levin	28	Fran Boydell
29	Crina Virgona	30	Terry Konopacki
31	Andrea Martin	32	Judith Barclay
33	Sandy Riley	34	Danielle Chip
35	Andrew Millis	36	Mary Beth Bauer
37	Stella Norman	38	Robert Russell
39	Sally Chow	40	Stephen Campbell
41	Pamela Patience	42	Richard Collins
43	Ann Taket	44	Alice Whitmore
45	Jill Humann	46	Christine Frith
47	Richard Begg	48	Raewyn Crighton
49	Marianne van Leeuwen	50	Janet Laverick
51	Jane Begg	52	Sarah Fordyce
53	Barry McClare	54	Helen Efthimiou
55	Ben Ciullo	56	Margaret Maguire
57	Michael Croker	58	Robyn & Lucien Zalcman
59	Angela Munro	60	Edith Fordyce Croker
61	Paul Natoli	62	Bernie McMullen
63	Julia Manickam	64	Deidre Williamson
65	Pam & Andrew Saunders	66	Helen Bloustein
67	Rosemary Adams	68	Megan Bonny
69	Elizabeth Sime	70	Chris, Nathan & David Parsons

No.	Submitter	No.	Submitter
71	Lin Padgham	72	Jill Wheeler
73	Dale Simpson	74	Tim Gatehouse
75	Beverley & Russell Elliot	76	Bruno Muraca
77	Joanne Bailey	78	Nola Read
79	Geoff Poynter & Rosemary Clark	80	John Gill
81	David Driver	82	Alice Obrien
83	Tim Scrase	84	Deborah Warrender
85	Katie Purvis	86	Margaret Goding
87	Denise Charman	88	Jeltje Fanoy
89	Philip McIntyre & Teck Sun (Paul) Chooi	90	Alexander Antoniadis
91	Helen & Greg Lanyon	92	Jodie Heap
93	Janette O'Brien	94	John Andrews
95	Virginia Noonan	96	Margaret Krishnapilla
97	James & Leanne Ryan	98	Jonathan & Lubica Shannon
99	Cathy Simpson	100	Joshua Lau
101	Ed Tollinton	102	Rod Harris
103	Guat Kin	104	Susan Martin
105	Mark Hastings	106	Katherine Kennedy
107	Ian Wong	108	Frances Wood
109	Natalie Hepp & Kieran Antill	110	Bernd Micheel
111	Todd Stokes	112	Jeanne & George Lee
113	John Lewis	114	June Corry
115	Kym & Pierre Prentice	116	Elinor White
117	Mark Landy & Julie Ahern	118	Lynton & Jenny Oaten
119	Dominique Halloran	120	Chris Cobbett
121	Alistair Walpole	122	Gabrielle Pound & Joe Palmieri
123	Jean & Duncan Rasmussen	124	Fiona Tinney
125	Callum Croker	126	Jenny Mackmillan
127	Sophie Xarhakos	128	Stewart Morritt
129	Ken Leehane	130	Greg Dowling
131	Richard Cade	132	Alan Henry
133	Lou & Noel Miller	134	Lee Ewing
135	Stephen Roberts	136	Keith Robertson
137	Euan & Catherine Heng	138	Kerry Brennan
139	Judy & David Balcombe	140	Evan Gill
141	Clare Morton	142	Diana Courtney
143	Shaun Gerstman	144	Louise Clayton & Philip Gardner

No.	Submitter	No.	Submitter
145	Simon Evans	146	John Hayhoe
147	Frances Ilyine	148	Stuart McArthur
149	David Thomas & Karen McCarthy	150	Peter & Lynne Macdonald
151	Sally Martin	152	Leigh Varley
153	Carolyn Greenwood	154	Mary Atchison
155	Jenny Gill	156	Andy Lloyd
157	Nick & Lesley Trumble	158	Susan Mahar
159	Sue McFall	160	Collingwood Historical Society
161	Geoffrey Lacey	162	John Hordern
163	Gail Thorntwaite	164	Kelly Barter
165	Marea Hurnard	166	Deborah Fowler
167	Jacinta Cubis	168	Susan and Francis Morgan
169	Christine Hill	170	Annabel Pollard
171	Debra Thorpe	172	Beverly Burnside
173	Aaron Chaston	174	Warren Guymer
175	Margaret & Bill Finger	176	Barry Coley
177	Peter Clinton	178	Chris Friday
179	Diana Carroll & Linda Woo	180	Maree Hayhoe
181	Anna Wolf	182	Susie May
183	Sharron Bourke	184	Leonie D'Aprano & Max Ogden
185	Roz Zalewski & Jeremy Ruskin	186	Ros McConville
187	Jenny Stewart	188	Elsa Underhill & Malcolm Rimmer
189	Barry & Ann Giddings	190	Clodagh Holahan
191	Remigus van de Wiel	192	Ray Liggett
193	Josephine Croci	194	David McCallum
195	Greg Taylor	196	Lindsay Round
197	Andrea Hodder	198	Judy Holden
199	Koula Neophytou & Paul Thompson	200	Dianne Lee
201	Annette Tepper	202	Helen & Davey Boag
203	Tracey Anderton	204	Julie Savage
205	Jenny & Peter Clark	206	Kate Hemingway
207	Suzanne Dance	208	Jennifer Colbert
209	Anne Gartner & Kent Middleton	210	Rob & Cath Quartermain
211	Raylene Golder	212	Matthew Varley
213	Aydin Keyvanloo	214	Cara Pilkington
215	Sue Spicer	216	Glynn Elias
217	Greg Spark	218	Ros & Owen Beaton

No.	Submitter	No.	Submitter
219	Jill Ingram	220	Julie Mitchell
221	Tom Malcolm & Lesley Lloyd	222	National Trust of Australia (Victoria)
223	Tracy Poynton	224	Richard Hughes & Beata Richau
225	John Pilkington	226	Sarah Deasey
227	Margaret Portelli	228	Adam Muir
229	Carlos & Kristina Krepelka	230	Ian Wright
231	Faye Bowyer	232	Callum McKinlay
233	Gwyneth Salisbury	234	Diane Gardiner
235	Helen Askew	236	Beverley Thomas
237	Janet & Judy Christie	238	Kathryn Anthony
239	Kenneth Gomez	240	Nenad Zijic
241	Laura Pender	242	Heather McDonald
243	Graham Meadows & Ellie Fossey	244	Cheryl Apperley
245	Graeme Willingham	246	Melissa Scheele & Lea Fay
247	Anastasia Morritt	248	Ian Breadon
249	Barbro Roberts	250	Mary Guiney
251	Harriet Mantell	252	Paul Jackson
253	Peter Robinson	254	Melinda Downes
255	Ann Robinson	256	Ruth Gould & Stephen Smith
257	Kris Courtney	258	Julian Golby
259	Charles Sowerwine	260	Lynette Harper
261	Lisa Russell	262	Queens Parade Heritage, Planning and Traders Group
263	Bruna Evans	264	Robyn & Peter O'Toole
265	Linda Young	266	Terry Nott
267	Fay & James Thomev	268	Ceci Thompson
269	Sandra Whitty	270	Giovanna Giaquinta & Richard Artis
271	Kerrie McArthur	272	Julie Paul
273	Virginia Fraser	274	John Owen
275	Sandra Brizga	276	Maria Liberogiannis
277	Marg Cross & Warren Young	278	Joan Schwitzer
279	Madge Fletcher	280	Protect Fitzroy North
281	Anne Coveny	282	Jennifer Willingham
283	Margaret O'Brien	284	Ursula Chandler
285	Anna Puglielli	286	Jan Tinetti
287	Rena Pritchard	288	Kathryn Forbes
289	Karen Cummings	290	Audrey Grant
291	Mary Kenneally	292	Margaret Pullen

No.	Submitter	No.	Submitter
293	Catherine Pitman	294	Adam Stead & Susan Wright
295	Justin Francis	296	Clive May
297	Margaret & Michael Power	298	Giselle Darling
299	Artemisia Kousis	300	Rob Sweetten & Adrianna Frescura
301	Julie Coade	302	Anne Horrigan-Dixon
303	Margot Kiddle (nee) Cross	304	Sharon Beach
305	Teresa Lynch	306	Athan Siapikoudis & Catherine Tobin
307	Sarah Bowman	308	Greg Martin
309	Giles Ingram	310	Peter Siapikoudis
311	Tim Kiddle	312	Steven Anderson
313	Bianca Mellor	314	Eileen Taylor
315	Adam Smith	316	James Downes
317	Sarah Downes	318	Fleur Scheele
319	Mark Kovaks	320	Ewan Taylor
321	Tom Scheele	322	Ben Scheele
323	Dorothy Whitfield	324	Glenn Elston
325	Kaspa Elston	326	Otis Elston
327	Arky Elston	328	Effe Scheele
329	Christian Scheele	330	Liz Scheele
331	George Rais	332	Dennis Scheele
333	Peter Scheele	334	Barny Scheele
335	Allan Fay	336	Elyse Scheele
337	Jenny Scheele	338	Chris Goodman
339	Sue Kneebone	340	Chris Scheele
341	Silvia Richards	342	Jen Richards
343	Gerry McLenna	344	Dean Hoane
345	Leon Jones	346	Elsa Haas
347	Bill Brenner	348	Mariann Brenner
349	Michael Fay	350	Patricia Fay
351	Sue Campbell	352	Sue Chew
353	Rebecca Buchanan	354	Emma Scheele
355	Laura Scheele	356	David Marquis
357	Leannine Fay	358	Jacqui Watson
359	Cliff Curtis	360	Louise Lambert
361	Cassandra Batte	362	Darren Ganth
363	Meri Hand	364	Phil Hand
365	Cloe Hand	366	Maureen Cox

No.	Submitter	No.	Submitter
367	Andreas Haas	368	Natalie & Michael Lack
369	WITHDRAWN	370	Fiona Leak
371	Kevin Jeal	372	Don Blackwood
373	Melinda Hughes	374	Don Tidbury
375	Peter Deite	376	WITHDRAWN
377	Sarah Scheele	378	Geraldine Jones
379	WITHDRAWN	380	WITHDRAWN
381	Lisa Cox	382	Jennifer Cox
383	Margret Cox	384	Timothy Richards
385	Brendan Scheele	386	Allan Richards
387	Ruth McCall	388	Luke McCall
389	Martin Kildemy	390	Trude Kildemy
391	Ben O'Hein	392	Adam Poynton
393	Valerie Falk	394	Paul Prentice
395	Carol Jasen	396	Cath MacKenzie
397	Dennis Butler	398	Pabas Mad Family Properties
399	Anne Horrigan-Dixon (with 35 signatories)	400	Debbie Wyatt
401	TLC Care	402	Ally Dickinson (JLP Melbourne)
403	Richard Hughes	404	Claudia Baaini
405	c/- Anne Horrigan-Dixon	406	Samcas Pty Ltd
407	Saskia Fransz	408	Mary Horsfield
409	Jacob van de Wiel	410	Lois Kruger
411	Nicholas Dal Sasso	412	Louisa Sloan
413	Renee Sloan	414	James Versteegen

Appendix B Parties to the Panel Hearing

Submitter	Represented by
City of Yarra	Susan Brennan SC and Jane Sharp of Counsel, instructed by Kristen Richardson of Maddocks with Leonie Kirkwood and Amanda Haycox of Council, who called expert evidence from: <ul style="list-style-type: none"> - Larry Parsons of Ethos Urban in urban design - Jim Gard'ner of GJM Heritage in heritage - David Helms of David Helms Heritage Panel in heritage - Andrew Spencer of SGS Consultants in capacity analysis - Sarah Ancell of Echelon Planning in planning - Charmaine Dunstan of Traffix Group in traffic
Nola Read	Gail Sjogren
National Trust of Australia (Victoria)	Caitlin Mitropoulos
Royal Historical Society of Victoria	Ian Wight
Anne Horrigan Dixon	
Queens Parade Heritage Planning and Traders	David Young, who called expert evidence from: <ul style="list-style-type: none"> - Nigel Lewis of Nigel Lewis Pty Ltd on heritage - Jim Holdsworth of Planning Collaborative in planning and urban design
Fitzroy Residents Association	Margaret Portelli
Protect Fitzroy North	Glen McCullum
TLC Aged Care	Ian Pitt QC and Edward Mahoney of Best Hooper Lawyers, who called expert evidence from: <ul style="list-style-type: none"> - Cath Heggen of Message Consultants in planning and urban design
Lauren Paolucci and Nenad Zajic	
Susan Maher	
Linda Young	
Anna Wolf	
Terence Nott	
Keith Robertson	
Rodney Pemberton	
Lindsay Round	
Richard Hughes	
Giselle Darling	
Village Vineyard Fine Booze	Saskia Fransz
3068 Group Inc	Chris Goodman
Save Queens Parade	Margaret Goding

Virginia Noonan	Herself, Lois Kruger and Clodagh Holahan
Paul Thompson	
Anne Coveny	
Kenneth Gomez	
Collingwood Historical Society	Janet Taylor
Justin Francis	
Simon Evans	
Tim Gatehouse	
James Versteegen	
Samcas Pty Ltd	Peter O'Farrell and Serena Armstrong of Counsel, instructed by Gemma Robinson of Rigby Cooke Lawyers, who called expert evidence from: - Julia Bell of David Lock Associates in urban design
Tope Lane Pty Ltd	Peter O'Farrell of Counsel, instructed by Eddie Zagami, who called expert evidence from: - Julia Bell of David Lock Associates in urban design
201 – 203, 205 – 215 Queens Parade, 6 – 12 Dummett Street, Fitzroy North	Jeremy Gobbo QC and Carly Robertson of Counsel, instructed by Luke English of Mornington Legal
81 – 89 Queens Parade Pty Ltd	Mark Naughton of Planning and Property Partners

Appendix C Document list

6 September 2019

No.	Date	Description	Presented by
1	16/7/19	Folder - Volume 1: Amendment Exhibition Documents, Notices and Correspondence	City of Yarra (Council)
2	"	Folder – Volume 2: Council Reports and Details and Summary of Additional Submissions	Council
3	22/7/19	Panel Directions and Hearing Timetable	PPV
4	26/7/19	Email: Maddocks advising Council list of experts	Maddocks Lawyers
5	29/7/19	Email (dated 26/7/19): Council advising of submission (Submitter 414) from Mr J Versteegen	Council
6	"	Hearing Timetable and Distribution List (Version 2)	PPV
7	31/7/19	Email: Site inspection map and notes	Council
8	2/8/19	Hearing Timetable and Distribution List (Version 3)	PPV
9	"	Email and evidence: TLC Care (Submitter 401) – Urban design from Ms Heggen, Message Consultants	Mr Mahoney, Best Hooper
10	"	Email and evidence: Pabas Mad Family Properties (Submitter 398) – urban design from Ms Bell, David Lock Associates	Mr Zagami
11	"	Email and evidence: Queens Parade Heritage, Planning and Traders Group (Submitter 262) – urban design from Mr Holdsworth and heritage from Mr Lewis	Mr Young
12	"	Email and evidence: Samcas Pty Ltd (Submitter 406) – urban design from Ms Bell, David Lock Associates	Ms Bilke, Rigby Cooke
13	"	Email, evidence and Part A Submission: Council – urban design from Mr Parsons, Urban Ethos; heritage from Mr Gard'ner, GJM Heritage; economic from Mr Spencer, SGS Economics and Planning; heritage from Mr Helms, David Helms Heritage Planning; planning from Ms Ancell, Echelon Planning	Maddocks Lawyers
14	5/8/19	Email and evidence: Council – traffic from Ms Dunstan, Traffix Group	"
15	7/8/19	Email, advising evidence statements placed on Council website	"
16	9/8/19	Email, Arboricultural Report & Management Plan 2005	Mr Goodman, 3068 Group
17	12/8/19	Additional 3D model plans showing 3 and 4 storey form with varied upper level setbacks (Precinct 4) prepared by Ethos Urban	Ms Brennan, SC
18	"	Modified precincts table with updated comments forming part of evidence statement of Mr Parsons, Ethos Urban	Mr Parsons
19	"	Set of hard copy plans (8) showing exhibited and preferred shadow outcomes with rear interface treatment (Precincts 3 and 4)	"

No.	Date	Description	Presented by
20	"	Marked up copy of DDO16 (Version 1) tabled on behalf of Samcas Pty Ltd, Tope Lane Pty Ltd	Mr O'Farrell of Counsel
21	13/8/19	Cadastral maps of study area (hard copy)	Ms Brennan, SC
22	"	Locality map and table of planning permits (issued, refused, built and proposed in study area)	"
23	"	Letter 9/8/19 from Mr Eddy (Mel Consultants)	"
24	"	Updated modelling maps showing laneway at rear of 390A Queens Parade	Mr Parsons
25	"	Marked up 'Near Maps' (2) showing upper level roof forms in Precinct 4	Mr Young
26	"	Modelling maps prepared by Mr Parsons showing street views from Hodgkinson Street to commercial area	Ms Brennan
27	14/8/19	A3 maps and amended submitter map	"
28	"	PowerPoint presentation from Mr Gard'ner	"
29	"	Mr Gard'ner response to Ms Armstrong question in relation height of St Johns spire	Mr Gard'ner
30	"	Mr Gard'ner response to Dr Darling question in relation to 380 Queens Parade	"
31	"	PowerPoint Presentation	Mr Goodman
32	15/8/19	Email, advice on Submission 398, 11-33 Queens Parade, recent purchase by Tope Lane Pty Ltd from Pabas Mad Family Properties Pty Ltd	Mr Zagami
33	"	VHR Permit and Plans 205-211 Queens Parade	Ms Robertson
34	"	Email, 1 August 2019, Maddocks to Mr Helms - letter of instruction	Ms Brennan, SC
35	"	Memorandum to experts from Maddocks to SGS Economics – instructions 18 June 2019	"
36	"	Updated track changes walking map notes	"
37	"	Further instructions to Mr Helms	"
38	"	Notice of Decision 267-271 Queens Parade	"
39	19/8/19	Email, timetable clarification for submission 398 and 406	Mr Thompson
40	"	Submission 78 (updated)	Ms Read
41	20/8/19	Request for separation of submissions 398 and 406	Mr Versteegen
42	"	Updated walking tour map V2	Ms Brennan
43	"	Part B submission, Yarra Council	"
44	"	Folder of attachments, Part B submission, Yarra Council	"
45	"	Images of built form in Yarra behind heritage buildings	"
46	"	Documents relating to viewpoint in Precinct 3A	"

No.	Date	Description	Presented by
47	"	Victorian Heritage Database report, Former United Kingdom Hotel and Clifton Hill Motor Garage	"
48	"	EPA, letter of advice regarding application of EAO	"
49	"	Council Report 14 May 2019, Council response to Panel recommendations to Amendment C220 (Johnson Street)	"
50	21/8/19	Email, Mornington Legal, Heritage permit 205-215 Queens Parade and 6/12 Drummett Crescent, Fitzroy	Mr English
51	"	Submission, National Trust of Australia (Victoria)	Ms Mitropoulos
52	"	Summary of submission, Queens Parade Heritage, Planning and Traders Group	Mr Young
53	"	Update of submission, Royal Historical Society of Victoria	Mr Wight
54	"	Names in support of Queens Parade Heritage, Planning and Traders Group submission of preferred DDO19	Ms Horrigan-Dixon
55	"	Update of submission	"
56	"	Update of submission, Queens Parade Heritage, Planning and Traders Group	Mr Young
57	"	A3 aerial with 10m upper level setback shown	Mr Wight
58	"	Notes accompanying urban design evidence	Mr Holdsworth
59	"	DDO6, Melbourne Planning Scheme	Ms Brennan, SC
60	"	DDO8 and HO30 maps, Clarendon Street and Cecil Street	"
61	"	Andrew Ward and Associates, Study, Clifton Hill Eastern and Western Residential Precincts	"
62	"	City of Yarra, Allom Lovell and Associates Study Excerpt	"
63	"	Clause 22.03 Yarra Planning Scheme	"
64	"	Submission, 3068 Group	Mr Goodman
65	22/8/19	Statements of Significance, Carlton Precinct	Ms Brennan, SC
66	"	Photo, existing building, Queens Parade	"
67	"	Email and additional documents to evidence statement	Mr Holdsworth
68	"	Email, photo viewpoint	Mr Thompson
79	"	Extract, 1970 Heritage Study	Ms Brennan, SC
70	"	Colour coded map Queens Parade	"
71	"	Update of submission 227	Ms Portelli
72	"	Update of submission 280	Mr McCullum
73	"	Additional documents (4), Submission 401	Mr Pitt SC
74	"	Summary presentation of evidence	Ms Heggen
75	23/8/19	Update of submission 240	Ms Paolucci
76	"	Update of submission 150	Ms Maher

No.	Date	Description	Presented by
77	"	Update of submission 265	Ms Young
78	"	Update of submission 181	Ms Wolf
79	"	Update of submission 266	Mr Nott
80	"	Update of submission 136	Mr Robertson
81	"	Diagram of rear laneways, 234 McKean Street	Dr Pemberton
82	"	Update of submission 298	Dr Darling
83	"	Update of submission 407	Ms Franz
84	"	Design approval at 97-99 Queens Parade, Peddle Thorp	Mr Goodman
85	26/8/19	Email, updated submission 158	Ms Mahar
86	"	Email, updated notes submission 224	Mr Hughes
87	"	Ms Ancell, Amendment C126 - Bayside Small Activity Centres Strategy 2014	Ms Sharp
88	"	Ms Ancell, examples of Environmental Audit Overlays	"
89	"	Update of submission 86	Ms Gooding
90	"	Update of submission 95, 410 and 190, Including photos	Ms Noonan
91	"	Written submission on behalf of Mr R. Adams	"
92	"	Update of submission 160	Ms Taylor
93	"	Update of submission 281	Ms Coveny
94	"	Update of submission 239	Mr Gomez
95	"	Update of submission 295	Mr Francis
96	"	Update of submission 145 (with attachments)	Mr Evans
97	"	Update of submission 74 (with photos)	Mr Gatehouse
98	28/8/19	Updated viewpoints to St Johns Church (taken 27/8/19)	Ms Brennan, SC
99	"	Updated summary table from Queens Parade Heritage, Planning and Traders Group	Mr Young
100	"	Update of submission 199 and photos	Mr Thompson
101	"	Update of submission 414	Mr Versteegen
102	"	PowerPoint presentation, evidence for 267 -271 Queens Parade	Ms Bell
103	"	PowerPoint presentation, evidence for 15 -33 Queens Parade	"
104	"	Memo/Addendum to expert urban design evidence of Ms Bell, 27/8/19	"
105	"	Updated DDO16 version 2	"
106	"	Extract, Hawksburn Village Structure Plan (2016)	Ms Brennan, SC
107	"	Written submission, Pabas Mad Family Properties, Tope Lane Pty Ltd and Samcas Pty Ltd (Submission 398 and 406)	Mr O'Farrell

No.	Date	Description	Presented by
108	"	VCAT decision, Renaissance United Assets Management Pty Ltd v Yarra City Council (2018) VCAT 103	"
109	"	Supreme Court decision, Seventh Colombo Pty Ltd v Melbourne City Council	"
110	30/8/19	Email (25/8/19) Presentation Notes (Submission 224)	Mr Hughes
111	"	Email (27/8/19) Photos of heritage sites	Ms Taylor
112	"	Email (27/8/19) Corrected and Updated Submission 95	Ms Noonan
113	"	Email (29/8/19) Preferred Street Wall Heights Precinct 3A Submission 398	Mr Zagami
114	2/9/19	DDO16 with commentary (Part C) 'track change version'	Maddocks Lawyers
115	"	Email (30/8/19) Supplementary submission 338	Mr Goodman
116	"	Email (1/9/19) Revised submission 199	Mr Thompson
117	"	Email (1/1/19) Positive examples of infill buildings	Ms Coveny
118	"	Email (30/8/19) Examples of infill buildings (photos)	Ms Noonan
119	"	DDO16 – Comparison of requirements in exhibited, preferred and Part C DDO	Ms Brennan, SC
120	"	GJM response to Ms Bell evidence, Precinct 3A	"
121	"	Ethos Urban response to Ms Bell evidence, Precinct 3A	"
122	"	Updated submission 402	Mr Gobbo QC
123	"	Updated submission 9 (with attachments)	Mr Naughton
124	"	Marked up revision of DDO16 Part C version	Mr O'Farrell
125	"	Email, Dr Darling comments to DDO16 Part C Version	Dr Darling
126	"	Email, Mr Thompson comments to DDO Part C Version	Mr Thompson
127	"	Part C submission from Yarra City Council	Ms Brennan, SC
128	"	Email, querying laneways and public realm definition	Ms Noonan
129	"	Email, corrected submission by the Royal Historical Society of Victoria	Mr Wight
130	5/9/19	Email (3/9/19) Advice to parties that hearings for amendment C231 have now closed	PPV
131	"	Email (4/9/19), Letter to Planning Panels Victoria	Maddocks Lawyers
132	"	Marked up track changes of DDO16 'final version'	"
133	"	Comparison table of DDO16 requirements	"
134	"	Statement of Significance document with track changes	"
135	"	Submission Part A (word version)	"
136	"	Submission Part B (word version)	"
137	"	Submission Part C (word version)	"

Appendix D Summary of Council changes to heights and setbacks

DDO16 – comparison of requirements in exhibited, preferred and Part C DDO (Document 133)

Precinct	Requirement	Exhibited DDO	Preferred DDO	Part C DDO
PRECINCT 1				
1	Maximum building height	<u>460 Brunswick Street - 9m (3 storeys) (3 x 3m residential storeys)</u> <u>Lot 1 TP806921 – 9m (3 storeys)</u> Elsewhere – 9m (3 storeys)		
	Maximum street wall height	<u>460 Brunswick Street & adjoining development - Match parapet height of 460 Brunswick Street</u> Elsewhere – <u>Retain existing, match the parapet or eaves height of taller adjacent heritage building</u>	<u>460 Brunswick Street - Match parapet height of existing heritage building</u> Elsewhere - <u>Retain existing street wall</u> Match the parapet or eaves height of taller adjacent heritage building	<u>460 Brunswick Street - Match the tallest parapet height of the existing heritage building</u> Elsewhere – <u>Retain the height of the existing heritage street wall</u>
	Maximum and minimum street setback (Exhibited version – Maximum street setback)	460 Brunswick Street & adjoining development - Built to boundary at ground level Elsewhere – <u>Retain existing, match the parapet or eaves height of taller adjacent heritage building</u>	<u>460 Brunswick Street - Match the setback of the existing heritage building</u> Elsewhere - Built to boundary at ground level	<u>460 Brunswick - Match the setback of the existing heritage building</u> Elsewhere - should not be less than the setback of an adjacent heritage building
	Minimum upper level setback	<u>460 Brunswick Street - 5m</u> Elsewhere – 6m from facade	<u>460 Brunswick Street - 6m</u> Elsewhere – 6m	<u>6m</u>
	Minimum setbacks from side and rear boundary	ResCode B17		
PRECINCT 2				
2A	Maximum building height	<u>31m (10 storeys) (1 x 4m commercial storey and 9 x 3m residential storeys)</u>		
	Maximum street wall height	<u>Retain height of existing heritage façade</u> <u>10 m where no heritage façade exists</u> Street wall of development adjoining the individually significant building must not exceed the parapet height of the taller adjoining heritage building	<u>Retain height of existing heritage façade</u> <u>10 m where no heritage façade exists</u>	

Precinct	Requirement	Exhibited DDO	Preferred DDO	Part C DDO
	Minimum & Maximum setback to Queens Parade	0m to max 10m		
2A (cont.)	Minimum upper level setback	Above existing heritage façade: <ul style="list-style-type: none">• 8m setback from 10m to 16 m• 10m setback from 16m Above new street wall (where no existing heritage façade): <ul style="list-style-type: none">• 5 m setback from 10m to 16m• 8 m setback from 16 m		
	Minimum setbacks from rear boundaries north & west adjacent to NRZ & GRZ	<ul style="list-style-type: none">• ResCode B17 from rear boundary of adjoining properties to 10m• Setback within 45° measured from 10-25m		
	Minimum setbacks from side boundary east adjacent to NRZ	<ul style="list-style-type: none">• 0m setback to match party wall of existing adjoining development to 10m• Setback within 45° measured from 10-25m		
	Minimum setbacks from side boundary east adjacent to MUZ	<ul style="list-style-type: none">• 0m setback to match party wall of existing adjoining development, or 10m where no party wall exists• 9m setback from the windows/balconies of adjoining apartments up to 16m• 15m setback above 16m		
	Minimum setbacks from side and rear boundaries west and north-west adjacent to MUZ	<ul style="list-style-type: none">• 0m setback to match party wall of existing adjoining development, or 10m where no party wall exists.• Setback within 45° measured from 10-25 metres		
2B (exhibited as 2D)	Maximum building Height	18m (4 - 5 storeys) (4 - 5 commercial storeys depending on floor heights)		
	Maximum street wall height	<u>Retain existing parapet height</u>	<u>Napier Street - Retain existing parapet height</u>	
	Minimum upper level setback	<u>6m</u>		
	Minimum rear setback	Not specified	4.5m from centreline of laneway for height of the entire building	
2C	Maximum building height	28m (7 - 8 storeys) (7 – 8 commercial storeys depending on floor heights)		
	Maximum street wall height	Queens Parade, George Street and Alexandra Parade	<u>Napier Street - 10m</u> Queens Parade, George Street and Alexandra Parade -	

Precinct	Requirement	Exhibited DDO	Preferred DDO	Part C DDO
2C (cont.)		- 18m Napier Street - should not exceed the parapet height of the adjoining heritage buildings	18m	
	Minimum upper level setback	5m	<u>Napier Street - 6m</u> Elsewhere - 6m	
	Minimum side and rear setbacks	Setback(s) from boundary of 472-484 Napier Street – Setback within a 45° line measured from 12m Elsewhere - ResCode B17	Rear setback: 4.5m from centreline of laneway for height of the entire building Side setback: For upper levels, where a habitable room window is proposed: <ul style="list-style-type: none">• 4.5 metres from the common boundary or from the centre line of the laneway. For upper levels, where a non-habitable room window or commercial window is proposed: <ul style="list-style-type: none">• 3 metres from the common boundary or the centre line of the laneway (on a where the laneway is less than 6 metres)	Rear setback: 4.5m from centreline of laneway for height of the entire building Side setback: For upper levels, where a habitable room window is proposed: <ul style="list-style-type: none">• 4.5 metres from the common boundary or from the centre line of the laneway. For upper levels, where a non-habitable room window or commercial window is proposed: <ul style="list-style-type: none">• 3 metres from the common boundary or the centre line of the laneway
PRECINCT 3				
3A (exhibited as 3)	Maximum building height	18m (5 storeys)	<u>18m (5 storeys)</u> <u>(1 or 2 x 4m commercial storeys and 3 or 4 x 3m residential storeys)</u>	

Precinct	Requirement	Exhibited DDO	Preferred DDO	Part C DDO
3A (cont.)	Maximum street wall height	<p>15-33 Queens Parade – 11m</p> <p><u>Retain height of existing heritage façade</u></p> <p><u>Development adjoining a heritage building must match the parapet height of adjacent taller heritage building</u></p> <p><u>Elsewhere – 14m</u></p>	<p>15-33 & 41 Queens Parade - 11m</p> <p><u>35-37 Queens Parade - retain height of existing heritage façade</u></p> <p><u>Development adjoining a heritage building must match the parapet height of an adjacent taller heritage building</u></p> <p><u>Elsewhere – 14m</u></p>	<p>15-33 & 41 Queens Parade - 11m</p> <p><u>35-37 Queens Parade - retain the height of the existing heritage façade</u></p> <p><u>Elsewhere – 14m</u></p>
	Minimum upper level setback	<ul style="list-style-type: none"> • <u>15-41 Queens Parade - 6m</u> • Elsewhere - 6m 		<u>6m</u>
	Maximum street wall setback	0m - built to front boundary at ground level		
	Minimum rear setback	<p>45° above 8m from rear boundary to a laneway</p> <p>45° above 5m from rear boundary (no laneway)</p>	<p>Where there is a laneway - Modified ResCode Standard B17 see Figure 1</p> <p>Where there is no laneway - Modified ResCode Standard B17 see Figure 2</p>	<p>Where there is a laneway - height and setbacks as shown in Figure 1</p> <p>Where there is no laneway - height and setbacks as shown in Figure 2</p>
	Minimum side setback	If adjoins NRZ - ResCode B17 Elsewhere - 0m		<p>If side boundary adjoins NRZ and abuts an existing boundary wall:</p> <ul style="list-style-type: none"> • 0m to a height of 8m • 45° above 8m <p>Elsewhere - 0m</p>
3B	Maximum building height	<p>18m (5 storeys)</p> <p>(1 or 2 x 4m commercial storeys and 3 or 4 x 3m residential storeys)</p>	<p><u>14m (4 storeys)</u></p> <p><u>(1 or 2 x 4m commercial storeys and 2 or 3 x 3m residential storeys)</u></p>	
	Maximum street wall height	<p><u>Retain height of existing heritage façade.</u></p> <p><u>Development adjoining a heritage building must match the parapet height of adjacent taller heritage building.</u></p>	<u>Retain height of existing heritage façade</u>	

Precinct	Requirement	Exhibited DDO	Preferred DDO	Part C DDO
	Minimum upper level setback	664 Smith Street (former Fire Station) - 6m Elsewhere - 6m	6m	
	Maximum street wall setback	0m - built to front boundary at ground level		
	Minimum rear setback	45° above 8m from rear boundary to a laneway 45° above 5m from rear boundary (no laneway)	Where there is a laneway - height and setbacks as shown in Figure 1 Where there is no laneway - height and setbacks as shown in Figure 2	
	Minimum side setback	If adjoins NRZ, ResCode B17 0m elsewhere		Deleted
PRECINCT 4				
4 (cont.)	Maximum building height	<u>21.5m (6 storeys)</u> <u>(1 or 2 x 4m commercial storeys and 4 or 5 x 3m residential storeys)</u>	<u>14m (4 storeys)</u> <u>(1 or 2 x 4m commercial storeys and 2 or 3 x 3m residential storeys)</u>	
4 (cont.)	Maximum and minimum street wall height - Queens Parade	<u>Retain height of existing heritage façade</u> <u>Where no heritage façade exists:</u> <ul style="list-style-type: none"> • <u>min 8m</u> • <u>max 11m or where there is an adjacent heritage building, the parapet height of that building if taller than 11m.</u> 	<u>For existing heritage facades:</u> <ul style="list-style-type: none"> • <u>Retain height of existing heritage façade</u> <u>Where no heritage façade exists and there is no adjacent heritage building/s:</u> <ul style="list-style-type: none"> • <u>At least 8m in height and no higher than 11m in height</u> <u>Where no heritage façade exists and there is an adjacent heritage building/s:</u> <ul style="list-style-type: none"> • <u>At least 8m in height and no higher than 11m unless an adjacent heritage building has a parapet height of more than 11m, in which case no higher than the adjacent</u> 	

Precinct	Requirement	Exhibited DDO	Preferred DDO	Part C DDO
4 (cont.)	Maximum and minimum street wall height – Side streets	Retain height of existing heritage façade. Where no heritage façade exists, development should be a minimum of 8 metres a maximum of 11 metres or where there is an adjacent heritage building, the parapet height of that building if taller than 11 metres		<p><u>heritage parapet height</u></p> <p>For existing heritage facades:</p> <ul style="list-style-type: none"> • No higher than the existing heritage façade <p>Where there is no heritage façade and there is no adjacent heritage building/s:</p> <ul style="list-style-type: none"> • At least 8m in height and no higher than 11m in height <p>Where no heritage façade exists and there is an adjacent heritage building/s:</p> <ul style="list-style-type: none"> • At least 8m in height and no higher than 11m unless there is an adjacent heritage building with a parapet height of more than 11m in which case no higher than the adjacent heritage parapet
	Minimum upper level setback - Queens Parade	<u>Significant heritage streetscape area – 6m</u> <u>364 Queens Parade – 8m</u> <u>167-197 Queens Parade – 6m</u>	<u>8m</u>	
	Minimum upper level setbacks - side streets	6m		
	Maximum and minimum street wall setback	<u>0m - built to front boundary at ground level</u>		<u>0m - built to front boundary at ground level (except for 181 and 193 Queens Parade)</u> <u>181 and 193 Queens Parade – Retain existing setback</u>

Precinct	Requirement	Exhibited DDO	Preferred DDO	Part C DDO
4 (cont.)	Minimum setback (NRZ interface) (Exhibited version – Rear setback (NRZ interface))	45° above 8m from rear boundary to a laneway 45° above 5m from rear boundary (no laneway)	Where there is a laneway - set back at least 1 metre, plus 0.3 metres for every metre of height over 4 metres up to 7.3 metres, plus 1 metre for every metre of height over 8 metres. (See Figure 1) Where there is no laneway - set back at least 4 metres, plus 0.3 metres for every metre of height over 4 metres up to 7.3 metres, plus 1 metre for every metre of height over 8 metres. (See Figure 2)	Where there is a laneway - height and setbacks as shown in Figure 1 Where there is no laneway - height and setbacks as shown in Figure 2
	Minimum rear setback (C1Z interface)	Not specified	3m above 11m	
PRECINCT 5				
5A	Maximum building height	18m (5 storeys) (1 or 2 x 4m commercial storeys and 3 or 4 x 3m residential storeys)	<u>11m (3 storeys)</u> <u>(1 or 2 x 4m commercial storeys and 1 or 2 x 3m residential storeys)</u>	
	Maximum street wall height	<u>Match existing parapet or eaves height</u>		<u>No higher than the height of the existing eaves of the former UK Hotel.</u>
	Minimum upper level setback	5m	6m	
5B	Maximum building height	1:1 heritage street wall to new built form behind Clifton Motors and 203 Queens Parade visible from the opposite side of Queens Parade 28 metres elsewhere (9 storeys) (1 or 2 x 4m commercial storeys and 7 or 8 x 3m residential storeys)	<u>201-215 Queens Parade - 18m (5 storeys)</u> <u>(1 or 2 x 4m commercial storeys and 3 or 4 x 3m residential storeys)</u> Elsewhere - 28m (9 storeys) (1 or 2 x 4m commercial storeys and 7 or 8 x 3m residential storeys)	
	Maximum street wall height	<u>Match parapet height of former Clifton Motor Garage and eaves line of</u>	<u>201-215 Queens Parade - match parapet height of former Clifton Motor</u>	<u>201-215 Queens Parade (including the frontage to north-east boundary</u>

Precinct	Requirement	Exhibited DDO	Preferred DDO	Part C DDO
5B (cont.)		<p><u>former UK Hotel</u> 11m for non-contributory buildings facing Queens Parade and Dummett Crescent</p>	<p><u>Garage and eaves line of former UK Hotel</u> 4-10 Dummett Crescent - 11m</p>	<p><u>to the laneway/Dummett Crescent for distance of 8m) - must be no higher than the parapet height of the former Clifton Motor Garage and the eaves line of the former UK Hotel</u> <u>Beyond a distance of 8m from the corner of Queens Parade, the street wall along the north-east boundary of 215 Queens Parade must be no higher than 11m</u> <u>4-10 Dummett Crescent - (including the NE boundary to Dummett Crescent) 11m</u></p>
	Minimum upper level setback	<p><u>Former Clifton Motor Garage - 6m</u> Elsewhere – 6m</p>		<p><u>201-215 Queens Parade - 8m</u> Elsewhere – 6m</p>
	Street wall setback	<u>0m – built to the boundary</u>		
	Minimum setback from side and rear boundaries	<p><u>0m</u></p>	<p>For upper levels, where a habitable room window is proposed - 4.5 metres from the common boundary or from the centre line of the laneway. For upper levels, where a non-habitable room window or commercial window is proposed - 3 metres from the common boundary or the centre line of the laneway (on a where the laneway is less than 6m wide) (sic).</p>	<p>For upper levels, where a habitable room window is proposed - 4.5 metres from the common boundary or from the centre line of the laneway. For upper levels, where a non-habitable room window or commercial window is proposed - 3 metres from the common boundary or the centre line of the laneway.</p>
5C	Maximum building height	<p>49m (16 storeys) 16 storeys based on (1 or 2 x 4m commercial storeys and 14 or 15 x 3m residential storeys) 49m previously based on</p>		<p>43m (14 storeys) (1 or 2 x 4m commercial storeys and 12 or 13 x 3m residential storeys)</p>

Precinct	Requirement	Exhibited DDO	Preferred DDO	Part C DDO
5C (cont.)		4m commercial and 3.5m residential		
	Maximum street wall height	35m	18m	
	Minimum upper level setback	10m	6m	
	Minimum setback from side and rear boundaries	Not specified	For upper levels, where a habitable room window is proposed - 4.5 metres from the common boundary or from the centre line of the laneway. For upper levels, where a non-habitable room window or commercial window is proposed - 3 metres from the common boundary or the centre line of the laneway (on a where the laneway is less than 6m wide) (sic).	For upper levels, where a habitable room window is proposed - 4.5 metres from the common boundary or from the centre line of the laneway. For upper levels, where a non-habitable room window or commercial window is proposed - 3 metres from the common boundary or the centre line of the laneway.

Appendix E Panel preferred version of Schedule 16 to DDO

Tracked Added

~~Tracked Deleted~~

xx/xx/yyyy
Proposed
C231

SCHEDULE 16 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO16**.

QUEENS PARADE

1.0

Design objectives

xx/xx/yyyy
Proposed
C231

- To ensure development responds to the heritage character and ~~streetscapes~~ and varying development opportunities and supports:
 - the existing low-rise character in Precincts 1, 3B, 4 and 5A
 - a new mid-rise character behind a consistent street wall in Precincts 2, 3A and 5B
 - higher rise development in Precinct 5C.
- To protect the integrity of historical streetscapes and clusters of heritage buildings of a similar scale and materiality ~~by limiting new development~~.
- To ensure development respects the architectural form and qualities of heritage buildings and streetscapes and maintains the visual prominence of the St John the Baptist church belfry and spire, the former ANZ Bank building, the former United Kingdom Hotel and the former Clifton Motors garage.
- To promote design excellence that ensures new development respects the wide, open boulevard character of Queens Parade ~~and including~~ where existing historic trees are key elements in the streetscape, they remain the dominant visual feature.
- To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new buildings provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

2.0

Buildings and works

xx/xx/yyyy
Proposed
C231

~~A permit is required to construct a building or construct or carry out works.~~

2.1

Definitions

Heritage building means any building subject to a Heritage Overlay, on the Victorian Heritage Register or any building graded as either Contributory or Individually Significant.

Laneway means a road reserve of a public highway 9 metres or less in width. This does not include Dummett Crescent.

Parapet does not include features such as brackets, pediments, urns, finials or other decorative elements.

Public realm means all streets (including Dummett Crescent) and spaces open to the public but does not include laneways.

~~Setback is the shortest horizontal distance from a building, including projections such as balconies, building services and architectural features, to the boundary.~~

Street wall means the façade of a building at the street boundary, or if the existing heritage building is set back from the street boundary, the front of the existing building.

Street wall height means the height of the street wall measured by the vertical distance between the footpath at the centre of the frontage and the highest point of the building, parapet, balustrade or eaves at the street edge or in the case of a heritage building if it is set back from the street from the centre of the building frontage to the highest point of the building, parapet, balustrade or eaves.

Upper level means development above the height of the street wall.

Upper level setback means the setback of the upper level measured from the street wall of the building.

2.2

General Requirements

The following requirements apply to an application to construct a building or carry out works and must be read in conjunction with the relevant precinct design requirements.

- A permit must not be granted or amended (unless the amendment would not increase the extent of non-compliance) to construct a building or construct or carry out works which exceed the mandatory maximum building height, mandatory maximum street wall height or mandatory maximum street wall setback or are less than the mandatory minimum street wall height or mandatory minimum upper level setbacks specified in the relevant Precinct Tables. A permit cannot be granted to vary these requirements.
- A permit must not be granted or amended (unless the amendment would not increase the extent of non-compliance) to construct a building or carry out works which exceeds the preferred building height and setbacks specified in the relevant Precinct Tables unless all the following requirements are met, to the satisfaction of the responsible authority:
 - The built form outcome as a result of the proposed variation satisfies the design objectives in Clause 1.0; ~~and~~
 - ~~all~~ All the other relevant requirements specified in this schedule.

Architectural features may exceed the preferred or mandatory height.

Service equipment—structures including plant rooms, lift overruns, structures associated with green roof areas and other such equipment may exceed the preferred or mandatory height provided that each of the following criteria are met for the equipment or structure:

- Less than 50 per cent of the roof area is occupied by the equipment (other than solar panels); ~~and~~
- The equipment does not cause additional overshadowing of private open space, Napier Reserve and Queens Parade; ~~and~~
- The equipment does not extend higher than 3.6 metres above the maximum building height.

Projections such as balconies and building services ~~must~~ should not intrude into a setback or upper level setback.

- Development should respond to the low scale form of existing development outside Precinct 3 on Hodgkinson Street through an appropriate transition in building height and setbacks to ensure reasonable standards of amenity.
- ensure that Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.
If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.

2.3 Street wall height requirements

- Except in Precinct 4, the street wall height should be no higher than the parapet height of a taller abutting ~~heritage building/s~~ ~~where present~~, for a minimum length of 6 metres measured from the edge of the heritage building/s.

2.4 Upper levels requirements

- Development Upper level development should:
 - ~~provide~~ Provide setbacks to ensure that upper level additions seen from the public realm do not diminish the appreciation of the heritage building and streetscape.
 - ~~avoid~~ Avoid repetitive stepped built form at upper levels.
 - ~~ensure~~ Ensure that upper level development is visually recessive.
 - ~~use~~ Use materials at upper levels that are recessive in finish and colour.
 - ~~include~~ Include articulated side walls which read as part of the overall building design.
 - ~~avoid~~ Avoid continuous built form at upper levels.
 - ~~ensure~~ Ensure balconies at upper levels do not dominate the solid façades of heritage street walls.
 - ~~Minimise~~ Minimise the visual intrusion of equipment and services.
 - Protect the contribution made by chimneys, parapets and other architectural features to the fine grained character of the area.

2.5 Corner site requirements

- New development on a corner site with a frontage to Queens Parade should continue the Queens Parade street wall height along the side street, with a transition in height to match the rear interface where required. This requirement does not apply to Napier Street in Precinct 2C, Precinct 5C or to a laneway except where specified. This requirement applies to the laneway abutting 215 Queens Parade in Precinct 5B to a height of 11m.

2.6 Ground floor design requirements

- Facades at ground level should be designed with floor to floor ceiling heights suitable to accommodate commercial activity in the Mixed Use Zone, Commercial 1 Zone and the Commercial 2 Zone.

- Building services and service cabinets should be located away from the street frontage of heritage facades. ~~Where unavoidable, they and~~ should be designed and located so they ~~do not dominate complement~~ the street frontage ~~or detract from and~~ the character and appearance of the heritage building.
- Windows of commercial premises, habitable rooms, and principal pedestrian entrances should be orientated towards the public realm and contribute to the safety of the adjoining public realm.

2.7 Vehicular access, car parking, and loading areas requirements

- New vehicle crossovers onto Queens Parade, Brunswick Street and Napier Street should be avoided.
- Vehicle ingress and egress into development, including loading facilities and building servicing, should ensure a high quality standard of pedestrian amenity and limit potential conflict between vehicle movements and pedestrian activity.
- Development on a laneway should include a rear/side setback or a corner splay at ground floor, to facilitate the ongoing functionality of the laneway and allow for building services and car park access.
- Future vehicle access and services must be provided by a rear laneway or side street where possible.
- Permanent obstructions within a rear/side setback or splay to a laneway should be avoided.

2.8 Heritage design requirements

~~The following design requirements apply to development on land affected by a Heritage Overlay or immediately adjacent to a heritage building.~~

Element	Design Requirement
Building facades and street frontages	<p>Infill buildings and development adjoining a heritage building</p> <p>Façade treatments and the articulation of infill buildings should:</p> <p>be simple and not compete with the more elaborate detailing of nineteenth century buildings</p> <p>respect the vertical proportions of the nineteenth and twentieth century facades in the heritage streetscape and/or the adjoining heritage building(s)</p> <p>avoid large expanses of unarticulated curtain glazing, highly reflective glass and glazing with a horizontal emphasis, except for ground floor shopfronts</p> <p>reflect the existing canopy/verandah height of the heritage streetscape and/or adjoining heritage building(s).</p> <p>Contributory or individually significant buildings</p>

Element	Design Requirement
	<p>Adaption and reuse of contributory or individually significant buildings should:</p> <p>maintain existing openings and avoid highly reflective glazing in historic openings</p> <p>encourage the retention of solid built form behind retained facades and avoid balconies behind existing openings</p> <p>maintain the inter floor height of the existing building and avoid new floor plates and walls cutting through historic openings.</p>
Design of upper levels	<p>Upper level development on land within a heritage overlay and on land immediately adjoining a heritage building should:</p> <p>be visually recessive and not visually dominate the heritage building and the heritage streetscape</p> <p>retain the primacy of the three dimensional form of the heritage building as viewed from the public realm to avoid ‘facadism’</p> <p>utilise visually lightweight materials and finishes that are recessive in texture and colour and provide a juxtaposition with the heavier masonry of the heritage facades</p> <p>incorporate simple architectural detailing that does not detract from significant elements of the heritage building and the heritage streetscape</p> <p>reflect the rhythm of the wider streetscape, fine grained character and subdivision pattern of the streetscape, especially on larger sites.</p>
Upper level setbacks	<p>Upper level setbacks in excess of the minimum mandatory upper level setback should be provided where:</p> <p>it would facilitate the retention of a roof form and chimneys that are visible from the public realm, or a roof or any feature that the relevant statement of significance identifies as contributing to the significance of the heritage building or streetscape</p> <p>it would maintain the perception of the three dimensional form and depth of the building</p> <p>a lesser setback would detract from the character of the streetscape when viewed directly or obliquely along Queens Parade.</p>

2.9 Precinct design requirements

The following precinct specific design requirements apply in addition to the general design requirements outlined in Clauses 2.2-2.7 (and renumber accordingly)

2.9.1 Precinct 1 – Brunswick Street

Shown on the planning scheme map as **DDO16-1**

Preferred character statement

Buildings and works should deliver ~~the following preferred precinct character~~:

- Properties fronting Brunswick Street and turning the corner to Queens Parade defined by fine grained low scaled heritage buildings, with-

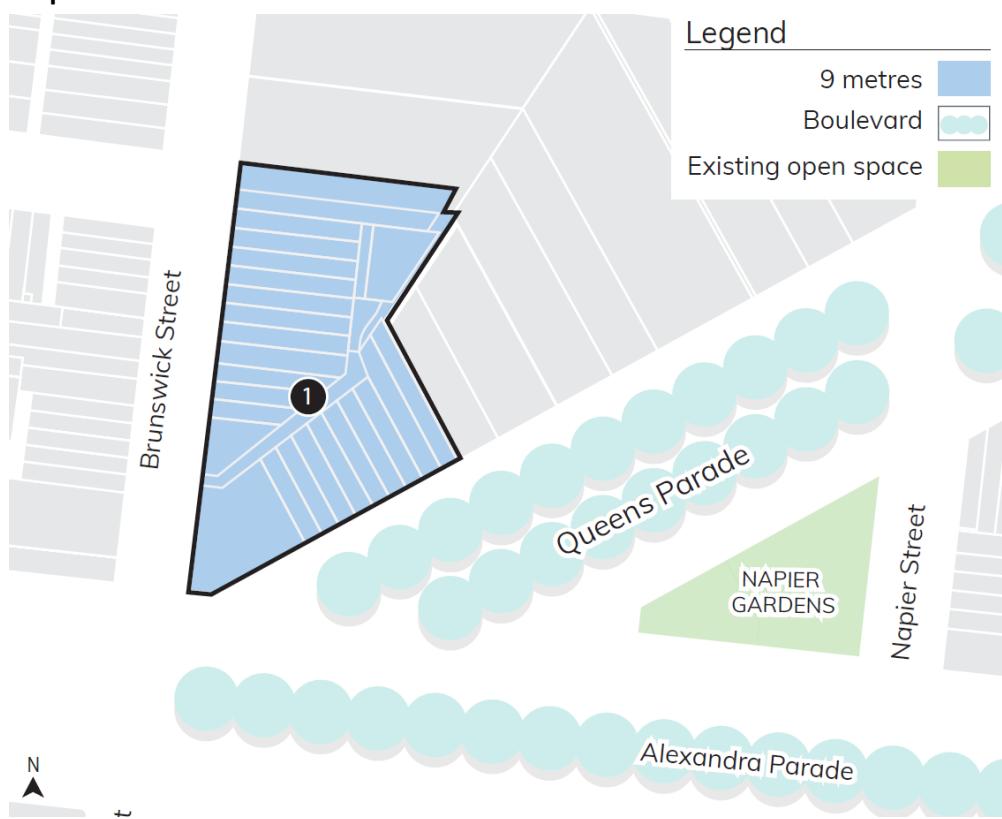
~~Moderate-moderate~~ low rise future infill behind the main heritage frontage, ~~supported accessed~~ by rear laneways ~~access~~.

- Visual prominence of the individually significant heritage building on the corner of Brunswick Street and Queens Parade retained.

Design requirements

Development in Precinct 1 should:

- ~~E~~nsure low rise additions behind the front sections of the terraced houses of Brunswick Street and Queens Parade respect the prevailing streetscape character and subdivision grain which,
~~retain and conserve the its heritage values of this low scale Victorian residential area.~~
- ~~ensure Ensure~~ upper level elevations are high quality, visually recessive and ~~do not diminish enhance~~ the appreciation of the heritage building at 460 Brunswick Street.
- ~~limit amenity impacts of building bulk, overlooking and overshadowing on existing residential properties.~~
- ~~provide for vehicular access and servicing off the laneway.~~

Map 1 – Precinct 1**Table 1 – Street wall height, building height and setbacks for Precinct 1**

Built Form	Mandatory Requirement	Preferred Requirement
Maximum building height	460 Brunswick Street and Lot 1 on Title Plan TP806921 - 9 metres	Elsewhere – 9 metres
Maximum street wall height	460 Brunswick Street - match the tallest parapet height of the existing heritage building Elsewhere - Retain the height of the existing heritage street wall	None specified
Maximum and minimum street setback	460 Brunswick Street – Match the setback of the existing heritage building	Elsewhere – Should not be less than the setback of an adjacent heritage building
Minimum upper level setback	6 metres	None specified
Minimum setbacks from side and rear boundary	None specified	ResCode Standard B17

2.9.2 Precinct 2 – Boulevard Precinct

Shown on the planning scheme map as **DDO16-2**

Preferred character statement

Buildings and works ~~in Precinct 2~~ should deliver ~~the following preferred precinct character:~~

- A preferred location for housing and employment growth within ~~the activity centre~~.
- ~~Well Well designed mid-rise development that which complements the boulevard. Queens Parade through transition of scale to the Gas Works site.~~
- ~~Matches the scale of development on the Gasworks site and "bookends" higher rise development in Precinct 5B and 5C.~~
- ~~Visual Development that complements the visual dominance contribution of the double avenue of trees along the south western part of Queens Parade, retained.~~
- Precinct 2A – A mid rise infill behind a distinct moderne heritage frontage ~~that, addressing addresses the boulevard Queens Parade and its sensitive heritage context an responds to the sensitivity of interface with abutting low scale close grained residential uses to the north and west and providing a transition down to the established surrounding residential neighbourhood.~~
- Precincts 2B and 2C – ~~A vibrant and attractive mid-rise business areas that addresses Napier Street, Queens Parade and Smith Street with a mix of innovative new architecture and heritage buildings to attracting accommodate a wide range of commercial development and employment opportunities.~~

Design requirements

Development in Precinct 2 should:

- ~~not diminish or detract from Respect the heritage values of the Queens Parade boulevard streetscape, the heritage street wall and the heritage trees along Queens Parade, and~~
deliver an appropriate interface to neighbouring properties ~~and that~~ minimises visual bulk and mass ~~when viewed from the adjoining properties.~~
- ~~Orientate active frontages and provide passive surveillance to the surrounding streets.~~
- ~~Eensure adequate solar access is provided to the Queens Parade and Napier Street Reserve at the equinox from 9am-3pm.~~
- ~~provide building separation along side and rear boundaries to reduce visual bulk and protect amenity of occupants and neighbours.~~

~~In addition, D~~evelopment in Precinct 2A should:

- ~~Provide an interface to neighbouring residential properties that minimises visual bulk and mass and provides building separation along side and rear boundaries abutting existing properties.~~
- ~~ensure projections above the street wall are not dominant in the skyline when viewed from the north side of Newry Street and of Coleman Street and the WT Peterson Oval, the Fitzroy Grandstand and other locations in the southern part of Edinburgh Gardens.~~
- ~~Maintain the prominence and significance of the art deco facade.~~
- ~~Rretain, enhance and incorporate the existing heritage façade into the redevelopment of the site and to create a consistent parapet height along the streetscape.~~

- Recognise the low scale, buildings and fine grain subdivision pattern of existing development to the north and west.
- Encourage pedestrian permeability within and through the precinct.
- Avoid a repetitive stepped form within the 45 degree angle profile.
- Ensure development above the street wall ~~to be~~ designed as a series of separate development parts with building separation to enable views to the sky.

Development in Precincts 2B and 2C should:

- ~~ensure a gradual transition in development scale from east of George Street (Former Gasworks Site) to south west (heritage properties along Napier Street).~~
- ~~maintain the prominence of heritage buildings along Napier Street when viewed from Napier Reserve.~~
- ~~be appropriately set back at upper levels from the heritage buildings along Napier Street.~~
- Provide an appropriate transition in scale from the heritage buildings in Precinct 2B to new built form in Precinct 2C and the higher development form of the Gas Works site.
- ~~provide vehicular access from laneways.~~
- ~~provide building separation to enhance amenity between commercial buildings and reduce building bulk and provide a transition to existing heritage buildings by utilising existing laneways and building setbacks.~~
- Create a new commercial frontage to George Street to form an active edge complementary to the proposed Gasworks redevelopment.

Map 2 – Precinct 2

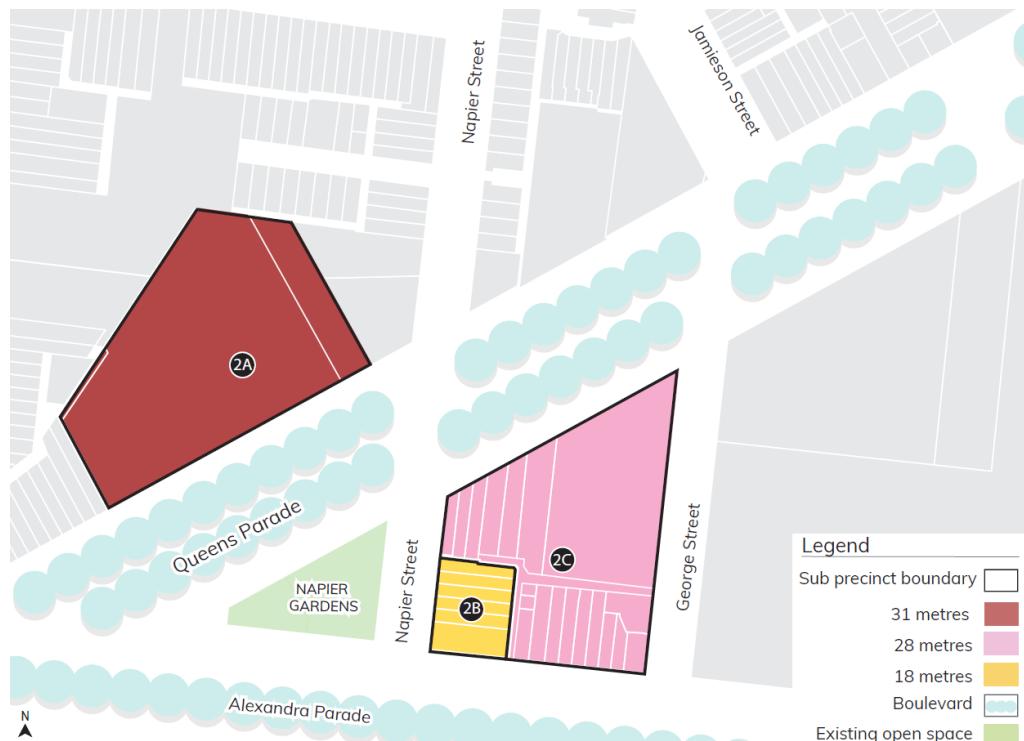


Table 2 – Street wall height, building height and setbacks for Precincts 2A, 2B and 2C

Built form	Mandatory requirement	Preferred requirement
Precinct 2A		
Maximum building height	31 metres	None specified
Maximum street wall height	Retain height of existing heritage façade 10 metres where no heritage façade exists	None specified
Minimum & maximum setback to Queens Parade	None specified	0 metres to maximum 10 metres
Minimum upper level setback	None specified	Above existing heritage façade: <ul style="list-style-type: none">• 8 metre setback from 10 metres to 16 metres• 10 metre setback from 16 metres Above new street wall (where no existing heritage façade): <ul style="list-style-type: none">• 5 metre setback from 10 metres to 16 metres• 8 metres setback from 16 metres
Minimum setback(s) from rear boundaries - north and west adjacent to NRZ and GRZ	None specified	ResCode Standard B17 from rear boundary of adjoining properties to 10 metres Setback within 45 degree angle measured from 10 <u>to</u> 25 metres
Minimum setbacks from side boundary - east adjacent to NRZ	None specified	0 metre setback to match party wall of existing adjoining development to 10 metres Setback within 45 degree angle measured from 10 <u>to</u> 25 metres
Minimum setbacks from side boundary - east adjacent to MUZ	None specified	0 metre setback to match party wall of existing adjoining development, or 10 metre where no party wall exists. 9 metre setback from the windows / balconies of adjoining apartments up to 16 metres 15 metre setback above 16 metres
Setbacks from side and rear	None specified	0 metre setback to match party wall of existing adjoining

Built form	Mandatory requirement	Preferred requirement
boundaries west and north-west adjacent to MUZ		development, or 10 metre where no party wall exists. Setback within 45 degree angle measured from 10 <u>to</u> -25 metres
Precinct 2B		
Maximum building height	None specified	18 metres
Maximum street wall height	Napier Street - Retain existing parapet height	None specified
Minimum upper level setback	6 metres	None specified
Minimum rear setback	None specified	4.5 metres from centreline of laneway for height of the entire building
Precinct 2C		
Maximum building height	None specified	28 metres
Maximum street wall height	Napier Street – 10 metres	Queens Parade, George Street and Alexandra Parade - 18 metres
Minimum upper level setback	Napier Street – 6 metres	Elsewhere - 6 metres
Minimum side and rear setbacks	None specified	Rear setback: 4.5 metres from centreline of laneway for height of the entire building Side setbacks: For upper levels, where a habitable room window is proposed: <ul style="list-style-type: none">• 4.5 metres from the common boundary or from the centre line of the laneway. For upper levels, where a non-habitable room window or commercial window is proposed: <ul style="list-style-type: none">• 3 metres from the common boundary or the centre line of the laneway

2.9.3 Precinct 3 – St Johns Precinct

Shown on the planning scheme map as **DDO16-3**

Preferred character statement

Buildings and works ~~in Precinct 3~~ should deliver ~~deliver the following preferred precinct character:~~

- An attractive mixed use area comprising residential and commercial uses with active frontages to the street, ~~well designed new buildings mixed with residential and commercial heritage fabric.~~
- ~~Development along Queens Parade has a consistent street wall with recessed upper levels.~~
- ~~Development retains that retains~~ the primacy of the St Johns Church landmark and views to its belfry and spire.
 - New development that articulates the higher profile of the corner of Queens Parade and Smith Street, relative to its immediate surroundings.
- ~~New development provided for at and around the Smith Street junction.~~
- ~~The prominent corner of Queens Parade and Smith Street marked by a higher street wall and development set back at the upper level.~~
- Intact streetscape on Smith Street retained with new development set back from the façade and designed to ~~not dominate~~complement the Victorian era buildings and street wall.
- An ~~Provide~~ an effective transition provided to the residential areas to the south and east.

Design requirements

Development in Precinct 3 should:

- ~~Reflect~~ recognise ~~the fine grain character of heritage streetscapes, where present and minimise the dominance of wide building frontages.~~
- ~~D~~eliver high quality architectural detailing that respects the heritage qualities and rhythms of Queens Parade and Smith Street.
- ~~C~~reate a consistent street wall and that ~~maintains~~ the prominence of the heritage street wall ~~where present~~ in the streetscape.
 - Provide an interface with neighbouring residential properties on Hodgkinson Street that minimises visual bulk and mass and provides building separation along side and rear boundaries abutting existing properties.
- ~~recognise the fine grain character of heritage streetscapes, where present and minimise the dominance of wide building frontages.~~
- ~~respond to the low scale form of existing development outside Precinct 3 on Hodgkinson Street through an appropriate transition in building height and setbacks to ensure a reasonable standard of amenity.~~
- ~~ensure that where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.~~
- ~~If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.~~

In addition, Development in Precinct 3A must:

- Maintain views of the belfry and spire of St Johns church and maintain clear sky between the belfry and spire and new development when viewed from the pedestrian refuge on the south-west corner of the intersection with Queens Parade and Smith Street. A permit cannot be granted to vary this requirement.

Development in Precinct 3A should:

- Emphasise the corner of Queens Parade and Smith Street with a higher street wall and distinct architectural treatments.

Development in Precinct 3B should:

- Reinforce the traditional street wall on Smith Street.
- Ensure that upper level development is visually recessive ~~and does not detract from to complement~~ the heritage streetscape.

Map 3 - Precinct 3

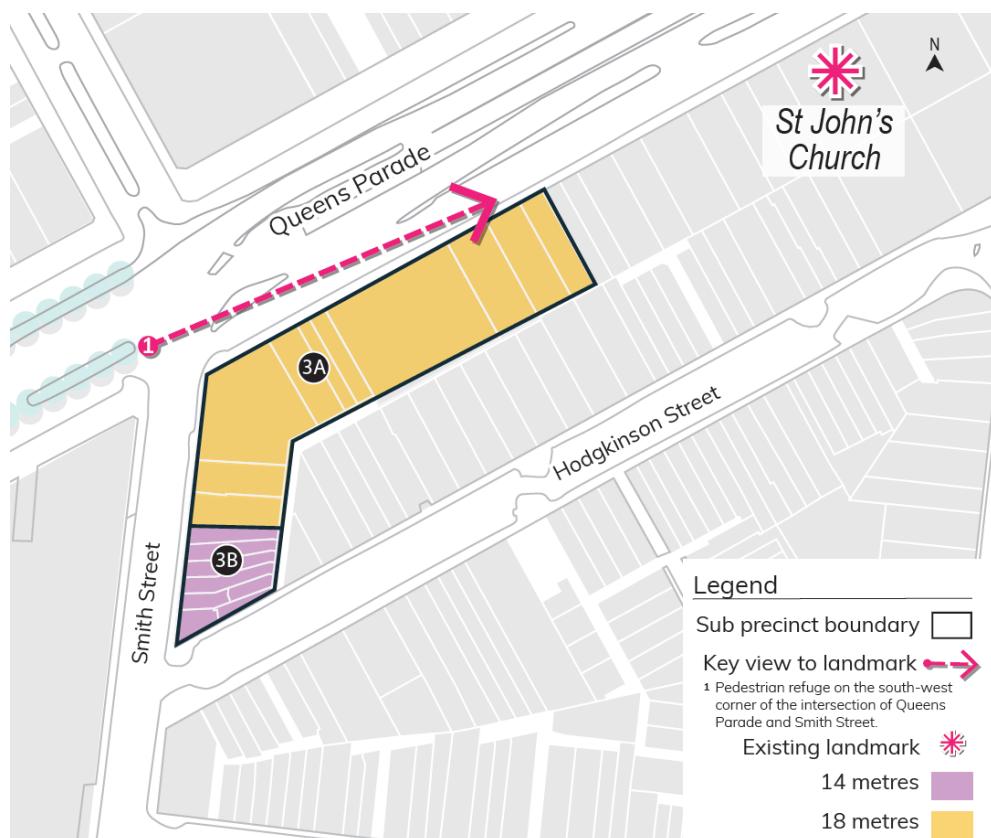


Table 3 – Street wall height, building height and setbacks for Precincts 3A and 3B

Built Form	Mandatory requirement	Preferred requirement
Precinct 3A		
Maximum building height	18 metres	None specified
Maximum street wall height	15-33 & 41 Queens Parade - 11 metres 35-37 Queens Parade - retain	None specified

Built Form	Mandatory requirement	Preferred requirement
	<p>the height of the existing heritage façade</p> <p><u>6 metres on either side of the corner of Smith Street and Queens Parade – 17 metres</u></p> <p>Elsewhere - 14 metres</p>	
Minimum upper level setback	6 metres	-None specified
Maximum street wall setback	None specified	0 metres - built to front boundary at ground level
Minimum rear setback	None specified	<p>Where there is a laneway:</p> <ul style="list-style-type: none"> • Height and setbacks as shown in Figure 1 <p>Where there is no laneway:</p> <ul style="list-style-type: none"> • Height and setbacks as shown in Figure 2
Minimum side setback	None specified	<p>If side boundary adjoins NRZ and abuts an existing boundary wall, a -0 metres to a height of 8 metres and a setback with a 45 degree angle above a height of 8 metres.</p> <p>Elsewhere - 0 metres</p>
Precinct 3B		
Maximum building height	14 metres	None specified
Maximum street wall height	Retain height of existing heritage façade	None specified
Minimum upper level setback	6 metres	None specified
Maximum street wall setback	None specified	0 metres - built to front boundary at ground level
Minimum rear setback	None specified	<p>Where there is a laneway:</p> <ul style="list-style-type: none"> • Height and setbacks as shown in Figure 1 <p>Where there is no laneway:</p> <ul style="list-style-type: none"> • Height and setbacks as shown in Figure 2.

2.9.4 Precinct 4 – Activity Centre Precinct

Shown on the planning scheme map as **DDO16-4**

Preferred character statement

Buildings and works ~~in Precinct 4~~ should deliver ~~the following preferred precinct character:~~

- A unique and vibrant Victorian era shopping strip which forms the retail and activity focus of Queens Parade building on its distinctive heritage qualities.
- ~~▪ The distinctive heritage qualities of this Victorian era shopping strip are protected.~~
- ~~New Development that~~ complements the scale of heritage buildings and the patterns and rhythm of heritage features.
- ~~▪ The consistent heritage streetwall height is continued.~~
- ~~Sympathetic U~~pper level infill that reinforces the prevailing street wall and subdivision grain of significant streetscapes and transitions ~~down~~ to residential abutments to the rear.
- ~~Enhanced pedestrian experience with well~~ Well designed building frontages and public realm reinforcing that reinforces the pedestrian experience of this part of Queens Parade as ~~a vibrant retail centre and the central~~ hub for the local community
- ~~Development that retains the prominence of the Significant heritage corner forms and key view lines to local landmarks (former ANZ Building) retained by sensitive upper level development.~~

Design requirements

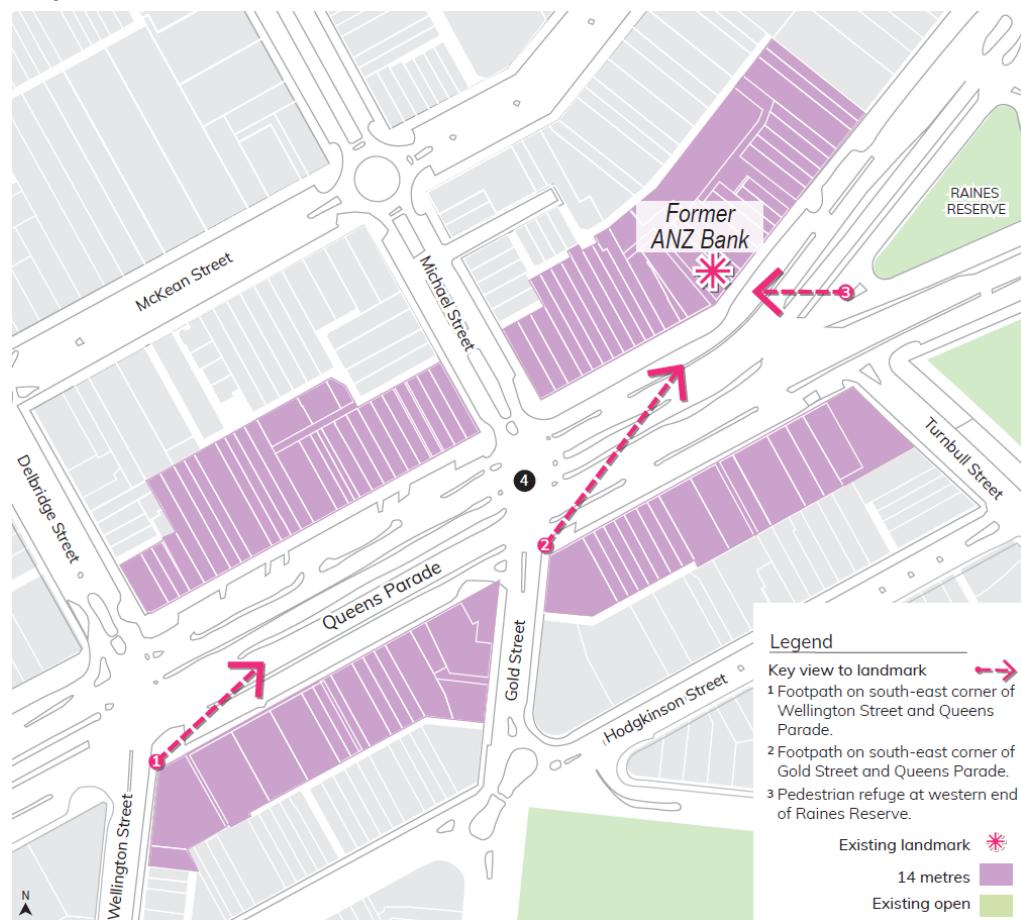
Development in Precinct 4 must:

- ~~Development must P~~rotect and maintain key views lines and visual prominence of the former ANZ Building from the south-west and north-east ([Map 4](#)), in particular to the upper floor, roof form and chimneys. A permit cannot be granted to vary this requirement.

Development in Precinct 4 should:

- Respect the consistent scale, grain, rhythm and architectural quality of the highly intact heritage streetscapes and the heritage buildings in the precinct.
- Retain the visual prominence of heritage buildings, their street wall and heritage streetscape when viewed from the opposite side of Queens Parade.
- Facilitate the appropriate low rise infill of the sites located to the rear of commercial properties fronting Queens Parade.
- Ensure that any upper level development is set back from the heritage façade, is visually recessive and does not detract from the heritage streetscape.
- Retain the visual prominence and heritage fabric of the return facades of heritage buildings that front Queens Parade, Delbridge, Gold, Michael and Wellington Streets.
- Ensure that facades at ground floor incorporate verandahs which are consistent with the form and scale of adjoining verandahs.
- Retain chimneys visible from the public realm.
- Enhance the amenity and safety of laneways that provide pedestrian and vehicular access to buildings.
- Maintain service access from the laneways in order to facilitate commercial use of the properties fronting Queens Parade.

- Ensure storefront widths are not reduced to the extent they become commercially unviable.
- * ~~respect the low scale, fine grain subdivision pattern of existing development on Hodgkinson Street and McKean Street through an appropriate transition in building height and setbacks.~~
- * ~~ensure that where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.~~
- ~~If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.~~

Map 4 - Precinct 4**Table 4 – Street wall height, building height and setbacks for Precinct 4**

Built Form	Mandatory requirement	Preferred requirement
Maximum building height	<u>South side of Queens Parade between Gold and Turnbull Streets</u> - 14 metres <u>Elsewhere</u> - 10.5 metres	None specified

Built Form	Mandatory requirement	Preferred requirement
Maximum and minimum street wall height on Queens Parade	<p>For existing heritage facades:</p> <ul style="list-style-type: none"> • Retain height of the existing heritage façade. <p>Where no heritage façade exists and there is no adjacent heritage building/s:</p> <ul style="list-style-type: none"> • at least 8 metres in height and no higher than 11 metres in height. <p>Where no heritage façade exists and there is an adjacent heritage building/s:</p> <ul style="list-style-type: none"> • at least 8 metres in height and no higher than 11 metres unless an adjacent heritage building has a parapet height of more than 11 metres, in which case no higher than the adjacent heritage parapet height. 	None specified
Maximum and minimum street wall height in side streets	None specified	<p>For existing heritage facades:</p> <ul style="list-style-type: none"> • No higher than the existing heritage façade <p>Where there is no heritage façade and there is no adjacent heritage building/s:</p> <ul style="list-style-type: none"> • at least 8m in height and no higher than 11m in height. <p>Where no heritage façade exists and there is an adjacent heritage building/s:</p> <ul style="list-style-type: none"> • at least 8 metres in height and no higher than 11 metres unless there is an adjacent heritage building with a parapet height of more than 11 metres, in which case no higher than the adjacent heritage parapet.
Minimum upper level setback on Queens Parade	8 metres	None specified

Built Form	Mandatory requirement	Preferred requirement
Minimum upper level setback in side streets	None specified	6 metres
Maximum and minimum street wall setback	0 metres - built to front boundary at ground level (except for 181, 189-191 and 193 Queens Parade)	181, 189-191 and 193 Queens Parade – Retain existing setback
Minimum setback to a NRZ interface	None specified	Where there is a laneway: <ul style="list-style-type: none">• Height and setbacks as shown in Figure 1 Where there is no laneway: <ul style="list-style-type: none">• Height and setbacks as shown in Figure 2
Minimum rear setback to a C1Z interface	None specified	3 metres above 11 metres

2.9.5 Precinct 5 – North Eastern Precinct

Shown on the planning scheme map as **DDO16-5**

Preferred character statement

Buildings and works ~~in Precinct 5~~ should deliver ~~the following preferred precinct character:~~

- An area of contemporary higher rise development in a preferred location for housing growth ~~within the activity centre~~.
- ~~where t~~The significant heritage fabric (the Former UK Hotel and the former Clifton Motors garage) remains the prominent Precinct features ~~in any redevelopment~~.
- ~~An area of contemporary higher rise development and bookends the mid-rise development in Precinct 2.~~
- Steps ~~down up~~ in scale in distinct increments from ~~the north east to~~ the significant heritage buildings (the Former Clifton Motors and UK Hotel buildings) ~~to the north-east in the south west~~.
- ~~Suitable S~~Separation between buildings ~~provided~~ to enable equitable development equity and amenity ~~and to diminish the bulk of the built form~~, while ~~also~~ contributing to a safe and legible walking environment that offers visual interest and encourages passive surveillance throughout the Precinct. ~~the management of building / visual bulk~~.

Design requirements

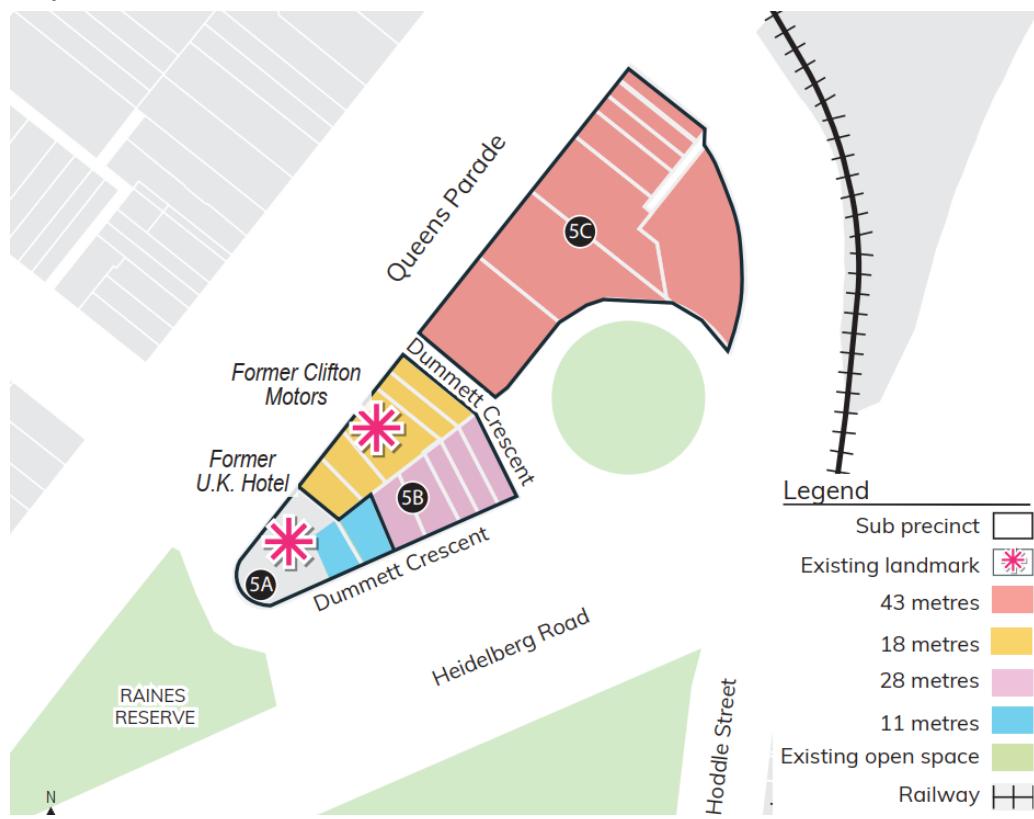
Development in Precinct 5 should:

- ~~retain~~ Retain the visual prominence ~~and not visually dominate the three dimensional forms~~ of the former United Kingdom Hotel when viewed from the key viewpoints as indicated on Map 5. Raines Reserve and the former Clifton Motors Garage when viewed from the opposite side of Queens Parade.
- ~~retain~~ Retain and incorporate the former Clifton Motor Garage (205-211 Queens Parade) in any redevelopment of the site and ensure that the three dimensional

form remains prominent and the decorative vertical fin remains as a freestanding element when viewed from the public realm.

- ~~adopt~~Adopt a street wall height for new development adjacent to the former United Kingdom Hotel that respects the façade height of ~~the building~~the former hotel.
 - ~~ensure~~Ensure buildings in Precincts 5B and 5C read as a series of separate development parts with building separation above the street wall.
 - ~~establish~~Establish a transition and gradual stepping down of building heights from taller forms in Precinct 5C to existing heritage form in Precinct 5A.
 - ~~ensure~~Ensure that adverse wind effects on the public realm are avoided.
- ~~In addition, in Development in~~ Precinct 5C, ~~development~~ should:
- ~~reinforce~~Reinforce the scale of existing high-rise buildings in the precinct ~~trending higher to the north east (of 10-14 storeys), avoiding taller buildings which detract from this scale~~.
 - ~~ensure~~Ensure high quality development ~~that~~ enhances the prominent corner of Queens Parade and Hoddle Street, creating a strong address to each street frontage ~~that encourages active pedestrian movement and accessibility through the Precinct~~.
 - ~~ensure~~Ensure that the height and design of the street wall creates and reinforces a 'human scale' to ~~diminish the perceived bulk of the buildings and~~ provide visual interest at street level along Queens Parade and Hoddle Street.

Map 5 - Precinct 5



[Include the viewpoints](#)

Table 5 – Street wall height, building height and setbacks for Precincts 5A, 5B and 5C

Built form	Mandatory requirement	Preferred requirement
Precinct 5A		
Maximum building height	11 metres	None specified
Maximum street wall height	No higher than the height of the existing eaves of the former UK Hotel	None specified
Minimum upper level setback	None specified	6 metres
Precinct 5B		
Maximum building height	201-215 Queens Parade - 18 metres	Elsewhere - 28 metres
Maximum street wall height	201-215 Queens Parade (including the frontage to north-east boundary to Dummett Crescent for distance of 8 metres) - no higher than the parapet height of the former Clifton Motor Garage and the eaves line of the former UK Hotel Beyond a distance of 8 metres from the corner of Queens Parade, the street wall along the north-east boundary of 215 Queens Parade no higher than 11 metres	4-10 Dummett Crescent (including the frontage to north-east boundary to Dummett Crescent) - 11 metres
Street wall setback	0 metres – built to the boundary	None specified
Minimum upper level setback	201-215 Queens Parade - 8 metres from Queens Parade	Elsewhere - 6 metres
Minimum side and rear setbacks	None specified	For upper levels, where a habitable room window is proposed: <ul style="list-style-type: none">• 4.5 metres from the common boundary or from the centre line of the laneway. For upper levels, where a non-habitable room window or commercial window is proposed:

Built form	Mandatory requirement	Preferred requirement
		<ul style="list-style-type: none"> 3 metres from the common boundary or from the centre line of the laneway.
Precinct 5C		
Maximum building height	None specified	43 <ins>49</ins> metres
Maximum street wall height	None specified	18 metres
Minimum upper level setback	None specified	6 metres
Minimum side and rear setbacks	None specified	<p>For upper levels, where a habitable room window is proposed:</p> <ul style="list-style-type: none"> 4.5 metres from the common boundary or from the centre line of the laneway. <p>For upper levels, where a non-habitable room window or commercial window is proposed:</p> <ul style="list-style-type: none"> 3 metres from the common boundary or from the centre line of the laneway.

3.0 Subdivision

xx/xx/yyyy
Proposed
C231

None specified.

4.0 Advertising

xx/xx/yyyy
Proposed
C231

None specified.

5.0 Application requirements

xx/xx/yyyy
Proposed
C231

The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and should accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A site analysis and urban design context report which demonstrates how the proposal achieves the Design Objectives, preferred character statement and Requirements-Design requirements of this schedule.
- Development-For development proposals for buildings over 20 metres in height ~~should be accompanied by~~ a wind study analysis to assess the impact of wind on the safety and comfort of the pedestrian environment on footpaths and other public spaces while walking, sitting and standing.

- A Traffic and Parking Assessment Report which includes an assessment of the cumulative impacts of traffic and parking in the Precinct including an assessment of the ongoing functionality of laneway/s.

6.0 Decision guidelines

xx/xx/xxxx
Proposed
C231

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- ~~Whether the General Design Requirements, Heritage Design Requirements and the Precinct Design Requirements in Clauses 2.2-2.9 are met.~~
- Whether the proposal delivers design excellence.
- If roof decks are proposed, whether they are set back from lower levels and are recessive in appearance.
- The profile and impact of development along Queens Parade when viewed from the north side of McKean Street and the south side of Hodgkinson Street.
- ~~The design response at the interface with existing, low-scale residential properties.~~
- The design of the streetscape interface along the primary street frontage.
- Whether side and rear setbacks and controls on light spillage and noise are sufficient to appropriately limit the impact on the amenity of existing dwellings.
- ~~How any proposed buildings and works will~~ The impact on solar access to Queens Parade and Napier Street Reserve.
- Whether heritage buildings on street corners retain their prominence when viewed from both streets.
- Whether heritage buildings retain their three-dimensional form when viewed from the public realm.
- Whether upper level development above the heritage street wall is visually recessive and does not dominate or visually overwhelm the heritage buildings.
- Whether the proposal contributes to and improves the pedestrian environment- and other areas of the public realm.
- The impact of development on views to:
 - the former ANZ Bank building's tower, roof, chimney and upper level
 - the St John the Baptist Church belfry and spire
 - the former Clifton Motor Garage's Moderne façade and fin
- The wind effects created by the development.
- The cumulative impact of traffic and parking in the Precinct including on the functionality of laneway/s.

Reference Documents

~~Queens Parade, Clifton Hill Built Form Review prepared by Hansen Partnership – December 2017~~

~~Queens Parade Built Form Heritage Analysis and Recommendations prepared by GJM Heritage – December 2017~~

~~3D Modelling prepared by Ethos Urban – 2019~~

~~Traffic Engineering Review: Amendment C231 of the Yarra Planning Scheme, Queens Parade Activity Centre, Clifton Hill prepared by Traffix Group Pty Ltd – August 2019~~

Figure 1 - Setback where there is a laneway to the side or rear

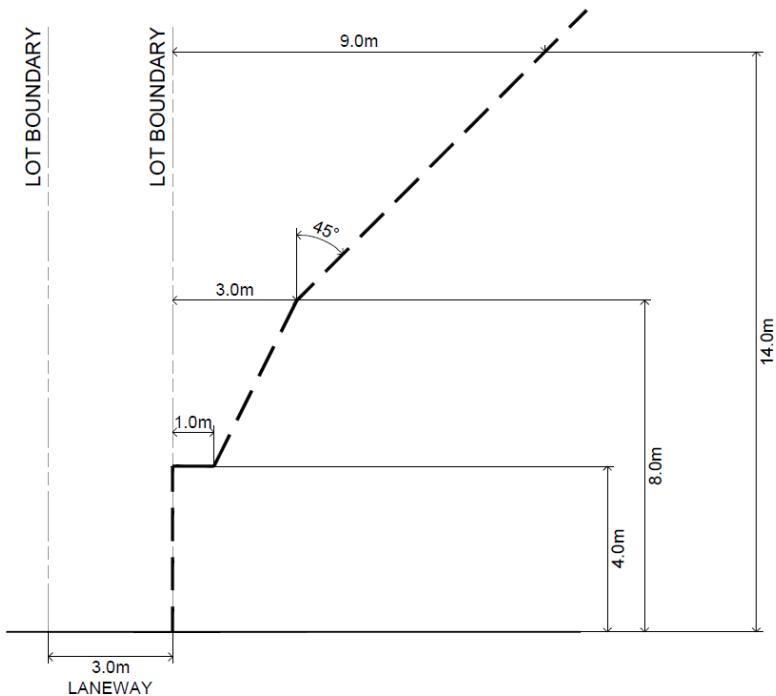


Figure 2 – Setback where there is no laneway to the side or rear

