

Amendment C231  
Yarra Planning Scheme  
Statement of evidence

Prepared for City of Yarra

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## Contents

1. Introduction	4
1.1 Preparation of this report	4
1.2 Qualifications and experience	4
1.3 Reports consulted	4
1.4 Declaration	5
2 Summary of my opinions	6
2.1 Has heritage significance been properly considered?	6
2.2 Is the exhibited DDO16 appropriate?	6
2.3 Are the proposed post-exhibition changes to DDO16 appropriate?	7
2.4 Suggested changes to the preferred DDO16	8
3 Peer review of DDO16	10
3.1 Review of 1.0 Design objectives	10
3.2 Review of 2.1 Definitions	11
3.3 Review of 2.2 General (design) requirements	12
3.4 Review of 2.3/2.8 Heritage design requirements	13
3.5 Review of Preferred character statements	14
3.6 Review of precinct design requirements	15
Precinct design requirements	15
Street wall height, building height and setbacks	16
4 David Helms – qualifications & experience	20

## 1. Introduction

This statement of evidence has been prepared by David Helms for the City of Yarra in relation to Amendment C231 to the Yarra Planning Scheme.

This statement of evidence provides a 'peer review' of certain heritage related matters in Amendment C231, specifically whether the proposed DDO16, as exhibited, and the changes proposed post-exhibition should be supported and implemented into the Yarra Planning Scheme.

In preparing my evidence I have not reviewed the parts of DDO16 (including proposed post-exhibition changes) that relate specifically to non-heritage matters (e.g., amenity issues such as overshadowing etc.). Also, I have not been asked to review associated changes to heritage controls and policy including revised building gradings, new citations etc.

For the purposes of this report:

- ▶ The version of DDO16 placed on exhibition is referred to as the 'exhibited DDO16'.
- ▶ The version of DDO16 revised by Council post-exhibition (see Attachment A) is referred to as the 'preferred DDO16' (to ensure consistency with Council's submission).

### 1.1 Preparation of this report

This statement has been prepared by David Helms, Heritage Consultant, of David Helms Heritage Planning (PO Box 1225, Chapel Street, Windsor, 3181) in accordance with *Planning Panels Victoria Guideline No.1 – Expert Evidence*.

I have prepared this statement of evidence with no assistance from others. The views expressed in this statement are my own.

I inspected the Queens Parade precinct on Wednesday 31 July 2019.

### 1.2 Qualifications and experience

My qualifications and experience are set out in section 3. My specific area of expertise is in the assessment of the post-contact heritage significance of places and in the application of heritage planning controls and policy in planning schemes.

I have been retained by various Councils to provide expert witness evidence on heritage matters at Independent Panel Hearings (please refer to section 3 for a full list).

Of particular relevance is my role as expert witness engaged by the City of Moreland to provide heritage evidence in relation to Amendment C134, which similarly proposed to introduce DDO controls over activity centres in Sydney Road and Lygon Street, Brunswick that are also covered by heritage controls.

### 1.3 Reports consulted

In preparing this statement of evidence, I have consulted the following reports and other information provided to me by the City of Yarra:

- ▶ *Queens Parade, Clifton Hill Built form review*, prepared by GJM Heritage for City of Yarra, 15 December 2017 (the GJM report).
- ▶ *Queens Parade Built form heritage analysis & recommendations*, prepared by Hansen partnership for City of Yarra, 11 December 2017 (the Hansen report).

- ▶ All exhibited Amendment C231 documentation.
- ▶ The 'Revised DDO – no track changes revised post Council meeting', which formed Attachment 6 to the report entitled 'Amendment C231 – Queens Parade – Response to submissions' presented to the Ordinary Council Meeting on 28 May 2019 (A copy forms Attachment A to this report).
- ▶ Clause 22.02 Heritage Policy in the Yarra Planning Scheme.
- ▶ Planning Practice Notes 59 (PPN 59) & 60 (PPN 60).
- ▶ The current statement of significance for the HO330 Queens Parade precinct, and the statements of significance for the HO317 Clifton Hill Western Precinct and the HO327 Fitzroy North Precinct.

In addition, I had the opportunity to view the 3D modelling prepared by Ethos Consulting, which provides a comparison of potential built form outcomes under the exhibited DDO16 and the preferred DDO16. This was done on Friday 26 July 2019.

#### 1.4 Declaration

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance, which I regard as relevant, have to my knowledge been withheld from the Panel.



David Helms

2 August 2019

## 2 Summary of my opinions

In determining whether I can give support to the proposed DDO16, as exhibited, and the changes proposed post-exhibition I have considered:

- ▶ Has the heritage significance of Queens Parade been appropriately considered in the development of built form controls for the area?
- ▶ Are the controls proposed by the exhibited DDO16 appropriate to protect the heritage significance of Queens Parade?
- ▶ Does the heritage significance of Queens Parade (or parts of it) justify the application of mandatory controls?
- ▶ In the context of the above, are the proposed post-exhibition changes to DDO16 appropriate?

On this basis, my specific findings and opinions are set out below.

### 2.1 Has heritage significance been properly considered?

It is my opinion that the heritage significance of Queens Parade has been properly considered. GJM consultants have prepared a comprehensive heritage analysis that includes an updated statement of significance for the Queens Parade precinct, and new or revised citations for six individually significant heritage places. The information in these citations and the GJM report provides a sound basis for considering the heritage significance of Queens Parade.

It is also evident to me that the heritage significance of Queens Parade as set out in the GJM report has been carefully considered and analysed in the preparation of the Hansen report.

The contextual analysis in the Hansen report includes a very detailed 'Heritage attributes' that draws from the GJM report and existing heritage policy, controls and citations listed in the Yarra Planning Scheme. The need to achieve a 'balance' between heritage and new development is clearly expressed in the Hansen report (see the bold text and the text that follows in the final paragraph on p.9, for instance) and also in the GJM report (see final paragraph on p.12).

### 2.2 Is the exhibited DDO16 appropriate?

It is my opinion that the exhibited DDO16 is an appropriate translation of the development controls recommended by the Hansen and GJM reports. As discussed in the following section 3, most of the objectives, requirements or controls are taken directly from the reports, or are consistent with the purpose or intent of the recommendations within them.

Overall, it is my opinion that the majority of the proposed controls in the exhibited DDO16 will protect the heritage significance of Queens Parade by ensuring new development responds appropriately to the valued built form characteristics.

The key exceptions are the proposed height limits within Precinct 3B, 4 and Precinct 5A, the proposed street wall height in Precinct 2C. While I understand the rationale for these controls in the GJM and Hansen reports having seen the 3D modelling prepared by Ethos Consulting it is my opinion that these controls could result in adverse heritage impacts. For this reason, I support most of the proposed post-exhibition changes, as discussed below.

**Proposed use of mandatory controls**

The GJM report recommends mandatory controls in limited circumstances to protect specific heritage features of high significance including:

- ▶ The consistent street wall and building height in Queens Parade, particularly within Precinct 1 and Precinct 4.
- ▶ Views to identified landmarks within the precincts.
- ▶ Views to and the setting of State significant buildings (UK Hotel and Clifton Motors).

For the reasons set out in section 3, I support the selective use of mandatory controls in DDO16.

**2.3 Are the proposed post-exhibition changes to DDO16 appropriate?**

In terms of the proposed changes to the exhibited DDO16 I have considered:

- ▶ Whether they will support the objective of protecting heritage significance.
- ▶ Whether they are derived from, or consistent with the findings and recommendations of the GJM and Hansen reports.
- ▶ Whether they are helpful in explaining or clarifying the purpose of the controls and outcomes sought and how they should be applied.
- ▶ Whether they are consistent with PPN 59 & PPN 60.
- ▶ Whether they simply duplicate existing provisions and/or add to complexity.

As detailed in section 3, while I believe that the changes to the text-based controls are generally appropriate, some minor changes could be made to reduce repetition and improve clarity, as listed in section 2.4. This includes a review of the 'Preferred character statements' for the reasons I discuss in section 3.6.

The preferred DDO16 also proposes changes to several of the height and setback controls within each precinct and for the purposes of this peer review, where there are differences I have focused on what I consider to be significant changes in relation to heritage:

- ▶ A change to a street wall or building height, or setback control that could result in either improved or worse heritage outcomes.
- ▶ A change from a preferred to a mandatory control.

I have not reviewed changes that, in my opinion, are effectively 'neutral' in terms of potential heritage impacts – one example of this is in Precinct 1, where it is proposed to increase the minimum upper level setback from 5m to 6m.

In relation to the change in height or setback controls I believe the general approach taken by the GJM and Hansen reports was sound at time it was prepared. However, having viewed the 3D modelling prepared by Ethos Consulting I am concerned that some of the potential development outcomes, particularly within Precinct 4, could result in adverse impacts upon heritage significance. For this reason, I support the proposed changes to street wall and building height and setback controls in various precincts (see Table 3.1 in section 3.6).

For similar reasons, it is my opinion that proposed introduction of additional mandatory controls in the preferred DDO16 is appropriate in most circumstances. The exception is in Precinct 2C where the proposed mandatory 10m street wall height in Napier Street potentially conflicts with the 18m street wall height in Queens Parade and section 2.5 'Corner site requirements'.

## 2.4 Suggested changes to the preferred DDO16

The following provides a summary list of my suggested changes to the preferred DDO16.

### Section 1.0 Design objectives

1. Retain proposed new first design objective with the following changes (new or amended text shown in *italics*, deleted text with ~~strike through~~):

To support:

- the existing low-rise character in precincts 1, 4 and 5A ~~part of 5 abutting the former UK Hotel~~
- a new mid rise character behind a consistent street wall in precincts 2, 3 and 5B ~~part of 5 abutting the former Clifton Motors~~
- higher rise development in precinct 5C, ~~west of Dummett Crescent~~

while ensuring development responds appropriately to heritage ~~character, heritage buildings and~~ streetscapes, sensitive interfaces and varying development opportunities.

An alternative could be to move the final paragraph to the beginning as follows:

*To ensure development responds appropriately to heritage buildings and streetscapes, sensitive interfaces and varying development opportunities and supports:*

Followed by the amended sub-points listed above.

2. Review the wording of the Queens Parade boulevard objective to clarify the reference to historic trees applies only in one section of the street.

### Section 2.1 Definitions

3. Review the definition of 'Street wall' and 'Street wall height' to ensure consistency.
4. Review the 'Parapet height' definition to determine whether it is necessary having regard to the changes to the 'Street wall' definition.

### Sections 2.4 Upper level requirements and 2.5 Corner Site requirements

5. Review the additional 'Upper levels' and 'Corner sites' General Design requirements to avoid duplication or potential conflicts, as discussed in section 3.3.

### Section 2.8 Heritage design requirements

In 'Upper level setbacks' in the table:

6. Replace the first three dot points with the following:
  - It would facilitate the retention of ~~the~~ a roof form *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.* ~~of the principal building facing Queens Parade~~



- ~~• A building has a prominent roof form clearly visible from the public realm~~
- ~~• The relevant Statement of Significance identifies the principal roof or elements to the rear of the building as significant elements of the building to be retained~~

7. Review the inclusion of dot points four and five.

**Section 2.9 Precinct design requirements**

8. Review inclusion of the 'Preferred character statements'.
9. In Precinct 2C review the proposed mandatory 10m street wall height in Napier Street due to the potential conflict with the 18m street wall height in Queens Parade and section 2.5 'Corner site requirements'.

### 3 Peer review of DDO16

#### 3.1 Review of 1.0 Design objectives

##### **Preferred DDO16**

The proposed changes to the design objectives include:

- ▶ The first two objectives are combined, amended and expanded to provide more specific outcomes for each sub-precinct.
- ▶ A new objective is added to 'protect the integrity of historical streetscapes and clusters of heritage buildings'.
- ▶ The objective in relation to the boulevard character of Queens Parade is amended.

##### **Discussion**

As exhibited, the second design objective was 'To support a new mid-rise character behind a consistent street wall in precincts 2-5'. There was no similar objective for Precinct 1.

The 'preferred' DDO16 now provides specific outcomes for each precinct, or parts of precincts, according to whether 'low-rise', 'mid rise' or 'higher rise' is the preferred outcome.

I support this change as it provides a more accurate description of the differing development outcomes sought in the various precincts, consistent with the Hansen and GJM studies, whereas the previous objective gave the impression that a similar outcome in terms of scale was envisaged for precincts 2 to 5.

However, I believe the wording of the new objective could be improved to make it more succinct, particularly in relation to the description of various parts of Precinct 5, which are confusing and, in one instance, incorrect (e.g., the reference to higher rise development being 'west of Dummett Crescent').

I understand the inclusion of the new design objective to 'protect the integrity of historical streetscapes and clusters of heritage buildings etc.' is to clarify that development within areas of high heritage significance such as Precinct 4 will be limited.

In relation to the change to the Queens Parade objective I question the inclusion of 'where historic trees remain the dominant visual feature'. As this is only true of the south-west section I believe these words should be qualified or deleted.

##### **Suggested changes to preferred DDO16**

1. Retain proposed new first design objective with the following changes (new or amended text shown in *italics*, deleted text with ~~strikethrough~~):

To support:

- the existing low-rise character in precincts 1, 4 and 5A ~~part of 5 abutting the former UK Hotel~~
- a new mid rise character behind a consistent street wall in precincts 2, 3 and 5B ~~part of 5 abutting the former Clifton Motors~~
- higher rise development in precinct 5C, ~~west of Dummett Crescent~~

while ensuring development responds appropriately to heritage character, heritage buildings and streetscapes, sensitive interfaces and varying development opportunities.

An alternative could be to move the final paragraph to the beginning as follows:

*To ensure development responds appropriately to heritage buildings and streetscapes, sensitive interfaces and varying development opportunities and supports:*

Followed by the amended sub-points listed above.

2. Review the wording of the Queens Parade boulevard objective to clarify the reference to historic trees applies only in one section of the street.

### 3.2 Review of 2.1 Definitions

#### **Exhibited DDO16**

The exhibited Definitions include specific terms that are used in DDO16, as well as some general terms (e.g., 'Building height').

#### **Preferred DDO16**

The changes to Definitions include:

- ▶ Deletion of the '1:1 ratio heritage street wall to new built form' definition.
- ▶ Inclusion of a definition of 'Heritage building'.
- ▶ Changes to the definition of a 'street wall'.
- ▶ Deletion of the building height exemptions for building plant and like (which have been moved to form part of the 'General requirements' in section 2.2).

#### **Discussion**

It is my opinion that most of the proposed changes are appropriate. I note that:

- ▶ In the exhibited DDO16 the '1:1' ratio was used in one instance in Precinct 5B. In the preferred DDO16 this has been replaced by a maximum height expressed in metres, so the definition is no longer required. I agree this is a preferred outcome in terms of ensuring clarity and consistency of controls.
- ▶ The definition of a 'heritage buildings' clarifies the buildings covered by this term.
- ▶ The change to the definition of the street wall includes addition of the highlighted words:

**Street wall** means the façade of a building at the boundary, or, if the existing heritage building is set back from the street boundary, the front of the existing building.

This change is appropriate, as it describes how a street wall is defined for heritage places that are set back from the frontage. That is, it describes an existing condition.

However, the proposed new street wall definition potentially contradicts/conflicts with the second part of the definition in relation to 'street wall height' that refers specifically to height measured above the 'footpath' and 'at the street edge'. This could be resolved by making these two separate definitions, and with changes to 'street wall height' to reflect

the two types of street walls and ensure consistency with the 'Building height' definition. If this is done, the definition of 'Parapet height' could also be deleted.

- ▶ The deletion/relocation of the building height exemptions for building plant and the like is appropriate, as these go beyond definitions to becoming actual controls.

### **Suggested changes to preferred DDO16**

3. Review the definition of 'Street wall' and 'Street wall height' to ensure consistency:
4. Review the 'Parapet height' definition to determine whether it is necessary having regard to the changes to the 'Street wall' definition.

## **3.3 Review of 2.2 General (design) requirements**

### **Exhibited DDO16**

The general design requirements relevant to heritage are derived from the Hansen and/or GJM reports and are appropriate.

### **Preferred DDO16**

The changes to General (design) requirements are:

- ▶ Replacement of the 'Street wall' requirement with a new provision, which requires the street wall of a new building to match an adjoining heritage building for a minimum length of 6 metres.
- ▶ Additional requirements for 'Upper levels' and 'Vehicle access'.
- ▶ A new requirement for 'Corner sites' for the street wall height on Queens Parade to continue along the side street.

### **Discussion**

In relation to the change to the 'Street wall' requirement, I understand the intent is to ensure there is an appropriate transition in street wall height between heritage buildings and large adjoining sites. However, this requirement would be impossible to achieve on sites that are less than 6 metres in width and it appears the wording of the requirement doesn't provide any discretion to change this.

In relation to 'Upper levels', the additional requirements include:

- ▶ *ensure upper level development is visually recessive.*
- ▶ *use materials at upper levels that are recessive in finish and colour.*
- ▶ *be designed so that side walls are articulated and read as part of the overall building design.*
- ▶ *avoid continuous built form at upper levels.*

In relation to the future development of heritage places:

- ▶ The first two dot points above are the same as or similar to requirements in 'Heritage design requirements' (section 2.3 in the exhibited DDO16 or 2.8 in the preferred DDO16). The 'Heritage design requirements' apply to land 'affected by a Heritage Overlay or immediately adjacent to a heritage building' and therefore affect most of the land within DDO16 except for parts of precinct 2C and 3A, and the whole of Precinct 5C. Accordingly, the need for these provisions should be reviewed (particularly whether it is appropriate for the higher rise development proposed in Precinct 5C).

- ▶ The third dot point above is a desirable outcome and should be included.
- ▶ My understanding of the intention of the fourth dot point above is to ensure that new development on larger sites is broken up to avoid a single large building mass. However, as it is a general provision it applies to all sites and, given the narrowness of most of the heritage properties, a continuous building form is unavoidable, as additions will usually be built to the boundary. Rewording of this dot point to avoid this unintended conflict is suggested.

The new provision for 'Corner sites' that requires the same street wall height on secondary streets potentially conflicts with some provisions (e.g., Precinct 2C, where there is a preferred street wall height of 18 metres on Queens Parade, but a mandatory street wall height of 10 metres to Napier Street) or simply duplicates the specific precinct street wall controls (e.g., the street wall height in Precinct 3A where it turns the corner, and for corner sites in Precinct 4 are the same). The need for this provision should be reviewed.

In relation to 'Vehicle access' I understand the change in wording is to allow for existing crossovers on Queens Parade to continue to be used, while avoiding new vehicle crossovers. This is appropriate.

#### **Suggested changes to preferred DDO16**

5. Review the additional 'Upper levels' and 'Corner sites' General Design requirements to avoid duplication or potential conflicts, as discussed above.

### **3.4 Review of 2.3/2.8 Heritage design requirements**

#### **Exhibited DDO16**

The requirements in the table in section 2.3 of the exhibited DDO16 are derived from section 2.16 of the GJM report, which provide additional guidance in relation to street wall height, upper level setbacks and adaption of heritage buildings.

#### **Preferred DDO16**

The preferred DDO16 adds an additional row to the table (now in the renumbered section 2.8), which includes additional requirements for upper level setbacks:

*Upper level setbacks in excess of a minimum mandatory upper level setback must be provided where:*

- ▶ *It would facilitate the retention of the roof form of the principal building facing Queens Parade*
- ▶ *A building has a prominent roof form clearly visible from the public realm*
- ▶ *The relevant Statement of Significance identifies the principal roof or elements to the rear of the building as significant elements of the building to be retained*
- ▶ *It would maintain the perception of the three-dimensional form and depth of the building.*
- ▶ *A smaller setback would detract from the character of the streetscape when viewed directly or obliquely along Queens Parade.*

### **Discussion**

The Heritage design requirements in the exhibited DDO16 provide appropriate guidance for the design of infill development and additions to heritage places and should be retained.

In relation to the proposed additional requirements, the GJM report recommends upper level setbacks to, for example, ensure that heritage buildings remain prominent in the streetscape, existing chimneys visible from the street are retained and to avoid 'façadism'. In relation to Precinct 1, for example (see table on p.68) the report includes the following:

*A discretionary approach is required to ensure an appropriate response can be achieved for each place in the sub-precinct given the variations in building height and roof forms.*

I understand the new provisions in the preferred DDO16 are intended to further assist with the exercise of discretion in relation to upper level setbacks. That said, I believe the requirements could be amended to ensure variations are based on heritage significance and do not simply duplicate other requirements, as follows:

- ▶ In relation to the first three dot points above, many of the roof forms of heritage buildings are concealed from view by parapets. Therefore, requiring the retention of roof form is not essential at all times. It may however be desirable to retain a greater proportion of roofs that are visible from the public realm, or are specifically identified as important by the statement of significance. Similarly, a greater upper level setback may be required to conserve any other feature identified as contributing to the significance of a heritage building or streetscape.
- ▶ In relation to the final two dot points above, I believe these duplicate requirements already contained in DDO16 (specifically, the first two dot points in the row above) and may be deleted or combined with these existing dot points.

### **Suggested changes to preferred DDO16**

In 'Upper level setbacks':

6. Replace the first three dot points with the following:
  - It would facilitate the retention of ~~the~~ a roof form *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.* ~~of the principal building facing Queens Parade~~
  - ~~A building has a prominent roof form clearly visible from the public realm~~
  - ~~The relevant Statement of Significance identifies the principal roof or elements to the rear of the building as significant elements of the building to be retained~~
7. Delete dot points four and five, or combine with the existing two dot points in the row above.

### **3.5 Review of Preferred character statements**

The preferred DDO16 now includes a 'Preferred character statement' (PCS) for each of the five precincts. The Hansen report included a PCS for each precinct and the PCS in the preferred DDO16 for Precinct 1 is very similar. However, the PCS for the other precincts in the preferred DDO16 are different to those in the Hansen report (although some, such as for Precinct 2, do include parts of the original Hansen PCS).

The inclusion of a PCS 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’). My concern is the PCS in the preferred DDO16, particularly for precincts 3, 4 and 5, do not do this. For example, the PCS for Precinct 3 includes the following:

*Development along Queens Parade will create a consistent street wall with recessed upper levels.*

*The precinct will provide for new development at and around the Smith Street junction.*

*The prominent corner of Queens Parade and Smith will be marked by a higher street wall with development set back at the upper level.*

*Development will retain the intact streetscape on Smith Street through existing buildings and existing street wall with new development set back from the façade and designed to not dominate the Victorian era buildings.*

Whereas the specific design requirements for Precinct 3 (in both exhibited and amended versions) includes:

*maintain the prominence of the heritage street wall in the streetscape.*

*emphasise the corner of Queens Parade and Smith Street with a higher street wall.*

*reinforce the traditional street wall on Smith Street.*

*ensure that upper level development is visually recessive and does not detract from the heritage streetscape.*

Similar overlap between the PCS and design requirements occurs in the other precincts (except for Precinct 1). These add to complexity and repetition in the DDO and for this reason I believe they should be reconsidered – either rewritten more succinctly (perhaps closer to the original Hansen PCS) or removed entirely.

### **Suggested changes to exhibited DDO16**

8. Review inclusion of the ‘Preferred character statements’.

## **3.6 Review of precinct design requirements**

The exhibited and preferred DDO16 include specific design requirements and a table setting out street wall height, building height and setbacks for each precinct.

### **Precinct design requirements**

Generally speaking, it is my opinion the precinct design requirements in both the exhibited and preferred DDO16 are derived from (or are largely consistent with) the GJM and Hansen reports, specifically the ‘Built form objectives’ within the text and the objectives within the tables for each in Section 5 Precinct guidelines of the Hansen report, and the ‘Recommended built form parameters’ for each precinct set out in sections 6 to 10 of the GJM report.

That said, there are some precinct design requirements in the preferred DDO16 that repeat others in DDO16. For example:

- ▶ In the specific design requirements for Precinct 2 there are two similar dot points in relation to building separation – on p.6, as the final dot point under ‘Development must:’ and the second to last dot point at the top of p.7.
- ▶ On p.10 the specific requirements for Precinct 3B, which repeat general requirements elsewhere:

*reinforce the traditional street wall on Smith Street.*

*ensure that upper level development is visually recessive and does not detract from the heritage streetscape.*

It would be desirable to review and edit/remove repetitious provisions, as required.

### **Street wall height, building height and setbacks**

The majority of the exhibited DDO16 controls appear to be in accordance with the recommendations of the Hansen and/or GJM reports. A key exception is the proposed mandatory height limit of 21.5m in Precinct 4. I understand this was a change made by the City of Yarra to provide more certainty for the maximum height limit, due to concern that the recommended preferred height limit of 18m may have resulted in applications to exceed this.

The preferred DDO16 proposes changes to several of the height and setback controls within each precinct and for the purposes of this peer review, where there are differences I have focused on what I consider to be significant changes in relation to heritage:

- ▶ A change to a street wall or building height, or setback control that could result in either improved or worse heritage outcomes.
- ▶ A change from a preferred to a mandatory control.

I have not reviewed changes that, in my opinion, are effectively ‘neutral’ in terms of potential heritage impacts – one example of this is in Precinct 1, where it is proposed to increase the minimum upper level setback from 5m to 6m.

In relation to the change in height or setback controls I believe the general approach taken by the GJM and Hansen reports was sound at time it was prepared. However, having viewed the 3D modelling prepared by Ethos Consulting I am concerned that some of the potential development outcomes, particularly within Precinct 4, could result in adverse impacts upon heritage significance. For this reason, I support the proposed changes to street wall and building height and setback controls in various precincts as listed in Table 3.1.

### ***Proposed use of mandatory controls***

The GJM report recommends mandatory controls in limited circumstances to protect specific heritage features of high significance including:

- ▶ The consistent street wall and building height in Queens Parade, particularly within Precinct 1 and Precinct 4.
- ▶ Views to identified landmarks within the precincts.
- ▶ Views to and the setting of State significant buildings (UK Hotel and Clifton Motors).

In relation to Precinct 4, having inspected the precinct and read both the existing and proposed new statements of significance I agree with the assessments made that this is a highly intact and visually cohesive precinct. It is also unusual amongst similar ‘High Street’ precincts in Melbourne due to its extraordinary width, which results in more



expansive views, particularly oblique views along and across the street. This has implications for management of future built form due to the potential for higher visibility of development behind the street wall.

It is my opinion that this is an appropriate use of the mandatory control and is consistent with the guidance provided by both PPN 59 and PPN 60, as follows:

- ▶ There is a sound strategic basis having regard to the planning policy framework (PPN 59).
- ▶ The controls will clearly implement a policy of protecting the consistent streetscapes in Queens Parade, particularly within Precinct 1 and Precinct 4, and views to and the setting of landmark and State significant buildings (PPN 59).
- ▶ The majority of provisions are appropriate and will lead to the outcomes prescribed in the vast majority of cases (consistency of street wall, visually recessive development, protection of views to landmarks etc.) and will avoid the risk of adverse outcomes (PPN 59).
- ▶ It will resolve divergent views when a consistent outcome is required, and will avoid the risk of adverse outcomes due to development pressure (PPN 59).
- ▶ Development applications within the Queens Parade area provide evidence of development exceeding the proposed controls (PPN 59).
- ▶ The controls will likely lead to reduced costs due to lesser officer time in assessing non-compliant proposals (and applicant time in preparing them) and fewer challenges at VCAT (PPN 59).

Having regard to the heritage significance of Queens Parade and the above matters it is my opinion that the proposed mandatory controls qualify for the 'exceptional circumstances' for the application of such controls within activity centres cited in PPN 60, which include:

- ▶ Significant heritage places.
- ▶ Sites of recognised State significance.

For similar reasons, it is my opinion that proposed introduction of additional mandatory controls in the preferred DDO16 is appropriate in most circumstances, as discussed in Table 3.1.

In Precinct 2C, however, I suggest reviewing the proposed mandatory 10m street wall height in Napier Street due to the potential conflict with the 18m street wall height in Queens Parade and section 2.5 'Corner site requirements'.

**Table 3.1 – Review of post-exhibition changes to height and setback controls**

<b>Precinct</b>	<b>Control</b>	<b>My response</b>
Precinct 2C	Street wall height reduced from 18m to 10m in Napier Street and made mandatory.	I support the reduction in height to 10m as it is consistent with the GJM recommendation and would provide a more appropriate response to the adjacent terrace house row. However, I question whether the control should be mandatory as it potentially conflicts with the street wall height of 18m that applies in Queens Parade and the proposed new section 2.5 'Corner site requirements in the preferred DDO16.
Precinct 3B	Building height reduced from 18m to 14m and made mandatory.	The GJM report did not specify whether the height control in this precinct should be mandatory or preferred, and the height was expressed as a ratio (1:1 in Queens Pde and 2:1 or approx 18m in Smith Street).  Given the heritage significance of these buildings I agree with the reduction to 14m. While I question whether this control should be mandatory having regard to the heritage significance of these places (they do not form part of a highly consistent streetscape, as found in Precinct 4). However, I understand it is proposed to be mandatory due to the interface with sensitive residential uses at the rear.
Precinct 4	Reduction in mandatory building height from 21.5m to 14m.  Upper level setbacks increased from 6m to 8m and made mandatory throughout whole precinct.	My observation of the 3D modelling by Ethos Consulting is that the height and setback controls in the exhibited DDO16 would result in an overly dominant built form. Having regard to the high degree of integrity and visual consistency throughout Precinct 4, and the need to protect significant views to (and the setting of) landmark buildings it is my opinion that: <ul style="list-style-type: none"> <li>• The reduced height limit and increased upper level setbacks would result in a more appropriate built form outcome having regard to heritage</li> <li>• Mandatory controls are appropriate having regard to PPN59 &amp; 60 for the reasons discussed above.</li> </ul>
Precinct 5A	Building height reduced from 18m to 11m and made mandatory	The GJM report recommends a preferred 18m limit. However, given the significance of the VHR listed UK Hotel it is my opinion that the mandatory lower height is appropriate for this precinct having regard to PPN59 & 60 for the reasons discussed above.

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<b>Precinct</b>	<b>Control</b>	<b>My response</b>
Precinct 5B	The building height control behind Clifton Motors garage is changed from '1:1' ratio to 18m and is made mandatory.	The GJM report recommends a preferred height control. However, given the significance of the VHR listed Clifton Motors garage it is my opinion that a mandatory height is appropriate for this precinct having regard to PPN59 & 60 for the reasons discussed above.

## 4 David Helms – qualifications & experience

*B App Sci (Urban & Regional Planning), Grad Dip (Heritage Planning & Management)*

I am a strategic planner with over twenty-five years experience, and now specialise in cultural heritage planning and management. I have worked in a variety of local and state government and private organisations in Melbourne, Sydney and regional Victoria. As a strategic and statutory planner who has also undertaken numerous cultural heritage studies, I combine my knowledge of cultural significance with a clear understanding of how heritage studies may be most effectively translated into practical planning controls, policies and guidelines that are easy to understand and use.

### **Heritage studies**

I have prepared numerous municipal heritage studies and reviews in my own practice or in collaboration with Context Pty Ltd including:

- ▶ Baw Baw Shire: *Baw Baw Shire Heritage Study* (2011).
- ▶ Cardinia Shire: *Cardinia Shire Heritage Review* (2010), *St James Estate Comparative Heritage Study* (2014), *Pakenham Structure Plan Heritage Review* (2018).
- ▶ Casey City: *Casey Heritage Study* (2004).
- ▶ Darebin City: *Darebin Heritage Study* (2010).
- ▶ Latrobe City: *Latrobe City Heritage Study* (2010).
- ▶ Manningham City: *Manningham Heritage Study Review* (2005).
- ▶ Mitchell Shire: *Mitchell Shire Heritage Amendment: Review of heritage precincts* (2012), *Mitchell Shire Stage 2 Heritage Study Review* (2013), *Wandong & Heathcote Junction Heritage Review* (2016), *Mitchell Shire Heritage Anomalies Review* (2018).
- ▶ Moonee Valley City: *Moonee Valley Gap Heritage Study Review* (2009), *Review of HO precincts* (2011), *Moonee Ponds Activity Centre Heritage Assessment* (2011), *Moonee Valley Racecourse Heritage Assessment* (2012), *Moonee Valley Racecourse Conservation Management Plan* (2014), *Heritage Overlay Review* (2014), *Post-war Thematic Precincts heritage Study* (2014), *Moonee Valley Heritage Study* (2015) and the *Moonee Valley Heritage Study* (2018- currently underway).
- ▶ Moreland City: *Moreland Local Heritage Places Review* (2009), *Moreland North of Bell Street Heritage Study* (2010), *Moreland Heritage Study Review* (2017).
- ▶ Mornington Peninsula Shire: *Ranelagh Estate Conservation Management Plan* (2009), *Mornington Peninsula Heritage Review: Area 1 – Mt Eliza, Mornington & Mt Martha* (2011).
- ▶ Murrindindi Shire: *Murrindindi Shire Heritage Study* (2010).
- ▶ Port Phillip City: *Heritage assessment of four places in the City of Port Phillip* (2005), *City of Port Phillip HO6 Precinct Heritage Review* (2016).
- ▶ South Gippsland Shire: *South Gippsland Shire Heritage Study* (2002), *South Gippsland Amendment C92 Heritage Citations* (2014).
- ▶ Yarra City: *Review of 17 Precincts* (2014), *Central Richmond Gaps Study* (2015), *Heritage Gap Study: Review of Johnson Street East* (2016).
- ▶ Yarriambiack Shire: *Yarriambiack Shire Heritage Study* (2014).

My other projects for Context Pty Ltd included heritage assessments and heritage impact analysis for the Regional Fast Rail project (Latrobe and Bendigo lines), the *Royal Exhibition Buildings & Carlton Gardens Conservation Management Plan* (in association with Lovell Chen), and the *Yan Yean Water Supply System Conservation Management Plan* and the *Regional Water Supply Heritage Study*, both for Melbourne Water and Heritage Victoria and *Homeward: the Thematic History of Public Housing in Victoria* for the Department of Human Services.

**Summary list of Planning Panel expert witness appearances**

I have appeared as expert witness or Council advocate at many planning panel hearings in relation to heritage amendments, mostly recently for Moreland City Council (expert witness) in relation to Amendment C174, Cardinia Shire Council (advocate) for Amendment C242, and Melbourne City Council (expert witness) for Amendment C258.

My other appearances before planning panels (expert witness except as noted) include Amendment C5 to the Port Phillip Planning Scheme (advocate), Amendments C17 and C34 (Part 2) to the Hobsons Bay Planning Scheme (advocate), Amendment C80 (Part 2) to the Casey Planning Scheme, Amendment C50 to the Greater Shepparton Planning Scheme, Amendment C26 Part 1 to the Wellington Planning Scheme, Amendments C68 and C108 Part A to the Darebin Planning Scheme, Amendment C14 to the Latrobe Planning Scheme, Amendments C117 and C163 to the Stonnington Planning Scheme, Amendments C86 and C90 to the Baw Baw Planning Scheme, Amendments C129 and C134 to the Moreland Planning Scheme, Amendment C77 to the Banyule Planning Scheme, Amendment C56 to the Mitchell Planning Scheme, Amendments C173 and C183 to the Yarra Planning Scheme, and Amendment C109, the Advisory Committee Hearing for Amendments C120 & C124, Amendment C143, Amendment C144 and Amendment C164 to the Moonee Valley Planning Scheme.