



## Swan Street Built Form Heritage Review

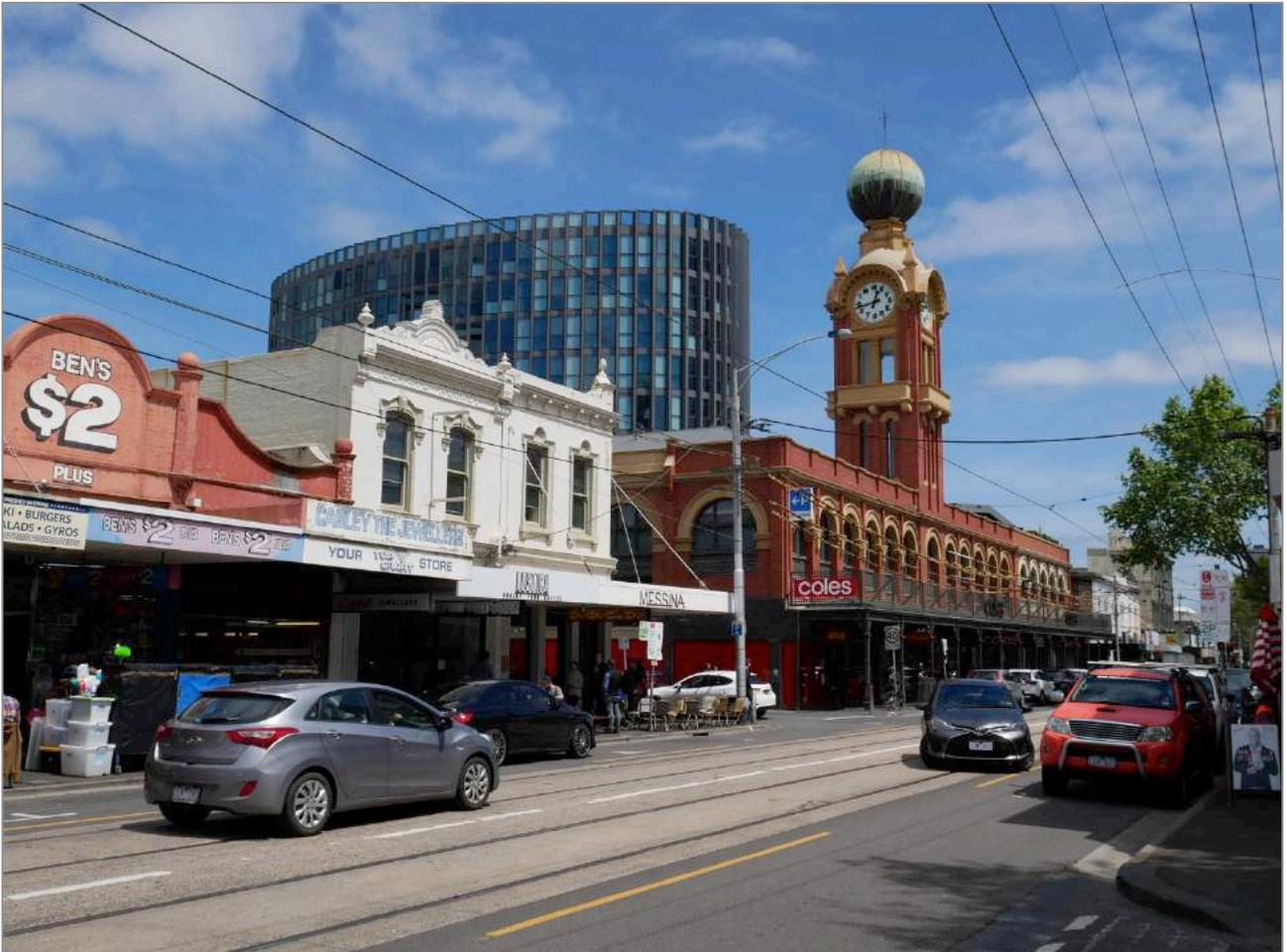


Figure 1: Swan Street, Richmond towards the former Dimmeys Building

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Prepared for the City of Yarra

GJM Heritage

a: Level 3, 124 Exhibition Street [GPO Box 2634], Melbourne, VIC 3001

t: 0481 284 130

e: [enquiries@gjmheritage.com](mailto:enquiries@gjmheritage.com)

w: [www.gjmheritage.com](http://www.gjmheritage.com)

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**Personnel:**

Jim Gard'ner, Director	GJM Heritage   Registered Architect
Renae Jarman, Director	GJM Heritage   Heritage Planner
Ros Coleman, Associate	GJM Heritage   Architectural Historian

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## Executive Summary

The City of Yarra (Council) is endowed with one of the largest and most highly intact collections of turn of the century 'High Streets' in the State of Victoria. These High Streets include the four Major Activities Centres of Swan Street and Bridge Road in Richmond, Brunswick Street in Fitzroy, and Smith Street straddling the suburbs of Fitzroy and Collingwood. They also include a large number of Neighbourhood Activity Centres, including Rathdowne Street and Nicholson Street in Carlton North, St Georges Road in Fitzroy North, Queens Parade in Fitzroy North/Clifton Hill, Gertrude Street in Fitzroy, and Johnston Street in Fitzroy and Collingwood.

These High Streets help to define the character of the municipality and their value to the community is recognised by their inclusions in the Heritage Overlay of the Yarra Planning Scheme.

Of these High Streets, Swan Street, Richmond is a Major Activity Centre with high quality and intact heritage buildings and streetscapes. As a Major Activity Centre it has been identified as an area suitable for further development and expansion. The character of Swan Street varies from highly significant heritage streetscapes to precincts of local heritage significance and areas of little or no heritage value.

Council is undertaking a Swan Street Built Form Study (the Study) in conjunction with Tract Consultants following the adoption of the Swan Street Structure Plan (SSSP) in 2014. The SSSP, prepared by David Lock & Associates, provides a strategic plan and vision for the Swan Street area. To give meaningful effect to the SSSP in the Yarra Planning Scheme, the Study reviews the existing and desired built environment in the Swan Street corridor within the SSSP area (the Study Area) and recommends additional controls to protect Swan Street's heritage values. The Study will in turn inform the content of a Design Development Overlay (DDO), which will form part of a future amendment to the Yarra Planning Scheme.

### Background

GJM Heritage (GJM) has been commissioned by Council to undertake a Swan Street Built Form Heritage Review (Heritage Review) to provide specific advice on the heritage considerations for the Study Area. The purpose of the Heritage Review is to ensure that the recommendations arising from the Study – and translated into the DDO – take proper account of the important heritage values within the Study Area, leading to fully integrated decision-making when considering new development within the Swan Street corridor.

The Heritage Review considers heritage places and precincts currently included in the Heritage Overlay of the Yarra Planning Scheme. GJM has considered the suitability of the extent of the existing Heritage Overlays and reviewed the currency of the existing Statements of Significance to ensure they provide adequate guidance for the identification and management of important heritage features. GJM has also analysed and evaluated preliminary recommendations for built form controls prepared by Tract Consulting (May 2017) from a heritage perspective, and this analysis will inform the final recommendations of the Study.

### Heritage Review: Key Recommendations

The following tables identify the key recommendations arising from the review of existing Statements of Significance, the extent of the existing Heritage Overlay coverage, the grading of individual properties within heritage precincts and the recommended built form controls that are desirable to protect the heritage significance of the Study Area.

Section	Statement of Significance Review	Recommendations
4	A review of the Statements of Significance for each of the precincts and individual Heritage Overlays was undertaken. This review found that six Statements of Significance should be	The following Statements of Significance should be updated: <ol style="list-style-type: none"> <li>HO335 - Swan Street Precinct</li> <li>HO405- Former Greyhound Hotel, 60-62 Swan</li> </ol>

	updated.	<p>Street</p> <ol style="list-style-type: none"> <li>3. HO288 (VHR H0732) - Former State Bank 216 Swan Street (via Heritage Victoria)</li> <li>4. HO286 - Former Burnley Theatre 365 Swan Street</li> <li>5. HO294 - House, 15 Wellington Street, Cremorne</li> <li>6. HO309 - Bendigo Street Precinct</li> </ol>
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Section	Heritage Overlay extent and grading review	Recommendations
5	A small number of properties were identified that may meet the threshold of 'local significance' when compared with others already included within the Heritage Overlay.	The following properties should be assessed for potential inclusion within the Heritage Overlay: <ol style="list-style-type: none"> <li>1. 30-40 Swan Street</li> <li>2. 223-239 Swan Street</li> <li>3. 273A Swan Street</li> <li>4. 323-325 Swan Street</li> </ol>
5	A small number of buildings already included in Heritage Overlay precincts are considered to make a marginal or negligible contribution to the precinct and their 'contributory' grading should be reviewed.	The following properties should be assessed to determine if they warrant their 'contributory' grading: <ol style="list-style-type: none"> <li>1. 67 Docker Street</li> <li>2. 129 Swan Street</li> <li>3. 218 Swan Street</li> </ol>
11	There are a small number of anomalies where either: <ol style="list-style-type: none"> <li>1. The property should be in the adjacent Heritage Overlay, or</li> <li>2. A precinct ends with a 'not-contributory' building and the precinct boundaries should be amended.</li> </ol>	The following amendments to the boundaries of Heritage Overlay precincts should be considered: <ol style="list-style-type: none"> <li>1. The Corner Hotel, 57 Swan Street, should be included within the Swan Street Precinct (HO335) rather than the Richmond Hill Precinct (HO332)</li> <li>2. The 'not-contributory' buildings at 416-418 Church Street form the southern boundary of HO315 and should be removed from the Heritage Overlay.</li> <li>3. The buildings at 375-377 Punt Road within the Wellington Street Precinct (HO364) have been demolished and should be removed from the Heritage Overlay.</li> </ol>

Section	Heritage Considerations for Built Form Controls	Recommendations
11 & 12	To maintain the landmark qualities and visual prominence of the Dimmeys Tower (including the ball, clock and central rendered band and the rectangular openings) the upper levels of any new development above the parapet line on the south side of Swan Street between the laneway to the east of the former Richmond	See Sections 11 and 12 of this report for detailed discussion and recommendations.

	Post Office and Church Street should be set back.	
11 & 12	The Swan Street Precinct (HO335) is dominated by intact and architecturally accomplished Victorian and Edwardian commercial buildings that reflect the high status of this retail strip. This is one of a limited number of highly intact turn-of-the-century shopping strips across metropolitan Melbourne, the significance of which warrants the application of mandatory street wall and setback controls to manage future development.	See Sections 11 and 12 of this report for detailed discussion and recommendations.
11 & 12	Small fragments of the southern part of the large Richmond Hill Precinct (HO332) are included within the Study Area by dint of their inclusion with the Commercial 1 Zone (C1Z). While the Richmond Hill Precinct includes commercial properties, only one building, the Corner Hotel (53 Swan Street), addresses Swan Street directly. Built form controls are necessary to manage development on sites that transition between the Swan Street and residential scale and character of HO332.	See Sections 11 and 12 of this report for detailed discussion and recommendations.
11 & 12	Three properties (410-418 Church Street) in the southern part of the Church Street Precinct (HO315) are included within the Study Area. While included within the C1Z (and therefore the Study Area) their character is closer to that of the residential component of HO315 than Swan Street itself. This section of HO315 is separated from HO335 by numbers 420 to 444 Church Street (which are not subject to the Heritage Overlay). The future character of this small area should seek to transition between new development between Swan Street and the residential character of HO315.	See Sections 11 and 12 of this report for detailed discussion and recommendations.
11 & 12	The Burnley Street Precinct (HO474) recognises the heritage significance of this local shopping strip that includes a number of intact buildings dating from the late-nineteenth to the mid-twentieth centuries as well a row of single-storey terraced houses that fall outside the study area. In contrast to the Swan Street Precinct (HO335), the proposed Burnley Street Precinct presents a	See Sections 11 and 12 of this report for detailed discussion and recommendations.

	less homogenous and architecturally accomplished built form and is a more typical mixed commercial and residential strip and therefore discretionary controls are generally appropriate.	
11 & 12	The Study Area includes three properties that are within the Bendigo Street Precinct (HO309). Other than 493, 495 and 497 Swan Street, which are zoned C1Z, the rest of HO309 is zoned Neighbourhood Residential Zone (NRZ) recognising the low-rise residential character of the area. The inclusion of these three properties and not the neighbouring Edwardian-era single-storey terraces at 499 and 501 Swan Street appears to be an anomaly.	The inclusion of 493-497 Swan Street within the study area should be reconsidered and either: <ol style="list-style-type: none"> <li>1. 493, 495 and 497 rezoned NRZ and removed from the Study Area (preferred); or</li> <li>2. 499 and 501 rezoned C1Z and included in the study area (not preferred).</li> </ol> See Sections 11 and 12 of this report for detailed discussion and recommendations.
11 & 12	Individually significant places outside precincts already have their street wall height established by their historic façade. Outside HO335, a number of buildings are included in individual Heritage Overlays or are graded 'individually significant' within HO474. Given the important contribution these individually significant buildings make to the area and the municipality, mandatory upper level setbacks should be applied to these sites.	See Sections 11 and 12 of this report for detailed discussion and recommendations.
11 & 12	To ensure that development immediately adjacent to the Heritage Overlay considers the form of the 'contributory' or 'individually significant' building, it is recommended that a preferred street wall height and setbacks be specified.	See Sections 11 and 12 of this report for detailed discussion and recommendations.

Section	Decision-making guidance	Recommendations
11 & 13	The proposed built form controls should be complemented with a suite of decision-making guidelines within the DDO to encourage the respectful and recessive design of taller development behind the street walls. The relevant design elements include façade articulation and treatments and choice of materials, colours and textures etc.	See Sections 11 and 13 of this report for detailed discussion and recommendations.

## **Presentation of the Heritage Review**

The following Heritage Review is presented in three parts:

### **Part I: The Project and the Study Area**

Part I introduces the Heritage Review, the methodology applied to the project and the Study Area under consideration.

### **Part II: Swan Street Heritage Review**

Part II details the heritage of the Study Area and provides recommendations for ensuring it is appropriately identified and documented.

### **Part III: Heritage Advice – Swan Street Built Form Study**

Part III considers the Swan Street Structure Plan and draft Swan Street Built Form Study in the context of the heritage of the Study Area. Recommendations are provided to ensure heritage places and values are appropriately managed within a changing Major Activity Centre.

## **Part I: The Project and the Study Area**

## **1. Introduction**

### **1.1 Swan Street, Richmond**

The City of Yarra (Council) is endowed with one of the largest and most highly intact collections of turn of the century 'High Streets' in the State of Victoria. These High Streets include the four Major Activity Centres of Swan Street and Bridge Road in Richmond, Brunswick Street in Fitzroy, and Smith Street straddling the suburbs of Fitzroy and Collingwood. They also include a large number of Neighbourhood Activity Centres, including Rathdowne Street and Nicholson Street in Carlton North, St Georges Road in Fitzroy North, Queens Parade in Fitzroy North/Clifton Hill, Gertrude Street in Fitzroy, and Johnston Street in Fitzroy and Collingwood.

These High Streets help to define the character of the municipality and their value to the community is recognised by their inclusion in the Heritage Overlay of the Yarra Planning Scheme. However, the Major Activity Centre status of four of the most substantial and significant of these High Streets presents a difficult challenge: how do we balance the retention of these highly valued streets with the need to ensure the long-term sustainability of these centres and meet the growth objectives of the Yarra Planning Scheme?

Swan Street, Richmond is a Major Activity Centre with high quality and intact heritage buildings and streetscapes that has been identified as an area suitable for further development and expansion. The character of Swan Street varies from highly significant heritage streetscapes, to precincts of local heritage significance, and areas of little or no heritage value.

The following report considers the heritage value of Swan Street in detail and establishes parameters for new built form that allows for increased development while respecting the heritage significance of this important High Street.

### **1.2 The Swan Street Built Form Heritage Review**

Council is undertaking a Swan Street Built Form Study (the Study) in conjunction with Tract Consultants following the adoption of the Swan Street Structure Plan (SSSP) in 2014. The SSSP, prepared by David Lock & Associates, provides a strategic plan and vision for the Swan Street area, which comprises ten distinct precincts. The SSSP contains strategies and objectives in relation to the four key themes of land use, built form, public realm and access and movement, with specific aims that include the protection of the valued heritage character of the area.

To give meaningful effect to the SSSP in the Yarra Planning Scheme, the Study reviews the existing and desired built environment in the Swan Street corridor within the SSSP area. The Study will in turn inform the content of a Design Development Overlay (DDO), which will form part of a future amendment to the Yarra Planning Scheme. The Study Area encompasses – in full or in part – five of the ten SSSP precincts along the Swan Street corridor.

As part of the Study, GJM Heritage (GJM) has been commissioned by Council to undertake a Swan Street Built Form Heritage Review (Heritage Review) to provide specific advice on the heritage considerations for the Study Area. The purpose of the Heritage Review is to ensure that the recommendations arising from the Study – and translated into the DDO – take full and proper account of the important heritage values within the Study Area, leading to fully integrated decision-making when considering new development within the Swan Street corridor.

The Heritage Review considers heritage places and precincts currently included in the Heritage Overlay of the Yarra Planning Scheme. GJM has considered the suitability of the extent of the existing Heritage Overlays and reviewed the currency of the existing Statements of Significance to ensure they provide adequate guidance for the identification and management of important heritage features. GJM has also

analysed and evaluated preliminary recommendations for built form controls prepared by Tract Consulting from a heritage perspective, and this analysis will inform the final recommendations of the Study.

Within this Heritage Review report, the term ‘Study Area’ or ‘Swan Street corridor’ refers to the whole of the area identified in red in Figure 2 below, which generally coincides with the extent of the Commercial 1 and 2 Zones (C1Z and C2Z) in the area. The term ‘Swan Street Precinct’ refers to the extent of the Heritage Overlay precinct affecting the western third of the Study Area i.e. HO335 – Swan Street Precinct, Richmond.



**Figure 2:** Extent of Study Area outlined in red with additional areas for consideration shaded in red (adapted from Tract Consultants diagram)

### 1.3 Heritage Review Methodology

GJM held an inception meeting with Council officers on 12 October 2016 to confirm the scope and proposed methodology for the Heritage Review.

The key background documents upon which the Heritage Review is based are:

- Swan Street Structure Plan (David Lock & Associates, January 2014)
- Swan Street Activity Centre Built Form Framework Draft Report (Tract, May 2017)
- Relevant Statements of Significance and heritage studies for heritage places and precincts within the Study Area

The above documents have been reviewed in the context of the following clauses from the Yarra Planning Scheme and the relevant Planning Practice Notes (PPNs) published by the Department of Environment, Land, Water and Planning (DELWP):

- The relevant provisions of the Yarra Planning Scheme in particular:
  - Clause 15.03 ‘Heritage’
  - Clause 21.05-1 ‘Heritage’
  - Clause 22.02 ‘Development Guidelines for Sites Subject to the Heritage Overlay’
  - Clause 22.03 ‘Landmarks and Tall Structures’
  - Clause 43.01 ‘Heritage Overlay’
  - Schedule to the Heritage Overlay
- PPN1: *Applying the Heritage Overlay* (July 2015)
- PPN59: *The role of mandatory provisions in the planning schemes* (June 2015)
- PPN60: *Height and setback controls for activity centres* (June 2015)

Recent Planning Scheme Amendments that implement heritage controls within the SSSP area have been reviewed to assist in the understanding the ‘local significance’ threshold applied to places within the Heritage Overlay in the Yarra Planning Scheme. These include:

- Yarra Amendment C149
- Yarra Amendment C157
- Yarra Amendment C183

The following Planning Panels Victoria (Panel) reports are relevant to the implementation of the Study as they consider the appropriateness of DDOs (containing both mandatory and discretionary provisions) within activity centres (or in the case of Melbourne Amendment C240, the Capital City Zone) that are also

subject, in part, to the Heritage Overlay:

- Banyule Planning Scheme Amendment C93 'Implementation of the Ivanhoe Structure Plan' (1 July 2014)
- Moreland Planning Scheme Amendment C134 'Brunswick Activity Centre' (15 May 2015)
- Melbourne Planning Scheme Amendment C240 'Bourke Hill' (4 May 2015)
- Bayside Planning Scheme Amendments C113, C114 and C115 'Mandatory provisions for the Sandringham Village, Bay Street and Church Street Activity Centres' (14 January 2015).

Two Victorian Civil and Administrative Tribunal (VCAT) decisions have considered the status of the SSSP as 'reasonably entertained planning policy' in relation to the heritage matters raised. These decisions are:

- Richmond Icon Pty Ltd v Yarra CC (includes Summary) (Red Dot) [2011] VCAT 2175 regarding the Redevelopment of Dimmeys, Swan Street, Richmond
- 429 Swan Street Pty Ltd v Yarra CC [2016] VCAT 370 regarding 429-437 Swan Street and 16-26 Farmer Street, Richmond

The Heritage Review commenced with a preliminary review of the Statements of Significance for heritage precincts and individually significant buildings, including those places registered on the Victorian Heritage Register (VHR). The extent of the Heritage Overlays was also subject to a desktop review and cross-checked against Google Streetview. This preliminary review familiarised the project team with the heritage fabric of the Study Area prior to fieldwork being undertaken.

Fieldwork was undertaken by Jim Gard'ner and Ros Coleman during the weeks commencing 17 and 24 October 2016, with supplementary fieldwork occurring from February to June 2017. All buildings and structures within the Study Area were inspected from the public realm with particular attention paid to the presentation of heritage buildings to Swan Street (and intersecting streets for corner sites), views along Swan Street, and views towards the tower of the Dimmeys Building. The interfaces between the Study Area and neighbouring residential areas subject to the Heritage Overlay were also considered.

The purpose of the fieldwork was to:

- Review the suitability of the extent of the existing Heritage Overlays and to identify where gaps exist (if any)
- Review the suitability of the existing Statements of Significance for heritage places and precincts against the extant heritage fabric and identify where the statements require updating for the purposes of properly managing proposal for change to the place
- Review the heritage buildings and streetscapes within the Study Area to identify the architectural and streetscape heritage features (e.g. parapets, roofline treatments, view lines, corner sites) that are relevant to a consideration of built form recommendations
- Undertake a review of the suitability of Tract Consultant's preliminary built form recommendations against the heritage fabric of the study area, which was informed by the 3D view shed analysis undertaken by Tract Consultants.

Following the fieldwork, draft recommendations for updates to the Statements of Significance and the extent of the Heritage Overlay coverage were identified, and issues and options in relation to the Study were formulated. These were presented at a workshop held on 27 October 2016, attended by representatives of Council, Tract Consultants and GJM. A further modelling workshop was held on 30 March 2017 to test parameters for new built form. Discussion and feedback from these workshops have informed this report. In turn, this report will be used to inform the final recommendations of the Study.

## 2. The Study Area

Swan Street has been a major commercial and retail thoroughfare in inner Melbourne since the middle of the nineteenth century and remains so to this day. The importance of the street is reflected in the rich legacy of state-significant and individually significant buildings and highly intact streetscapes of consistent scale and architectural quality. The Swan Street corridor is valued by the local community and visitors alike, and its heritage buildings provide an impressive backdrop for retail shops, hospitality venues and commercial uses (see *Swan Street: A Rich Historical Legacy*, GJM Heritage (July 2017) for a detailed discussion of the historical influences that created Swan Street).

The Study Area includes the length of Swan Street from Punt Road in the west to Burnley Park in the east. It generally extends from the railway line in the south to the northern boundary of allotments on the north side of Swan Street. At Church Street, the Study Area extends to approximately 120 metres north of Swan Street. Within its extent, the Study Area includes highly intact nineteenth and early twentieth century retail streetscapes, particularly at its western end between the railway viaduct and Church Street.

The character of the Study Area varies greatly along the length of Swan Street, moving from the highly intact turn of the century 'High Street' towards the western end, to a diverse and substantially less historically intact retail and residential area towards the east. While predominantly occupied by retail and commercial uses, the Study Area includes some residential properties at its eastern end.

West of the railway bridge, the Richmond Railway Station dominates the north side of Swan Street. The south side contains a mixture of intact late-nineteenth and early twentieth century two-storey buildings, including the Precinct Hotel, as well as at-grade car parks and forecourts.



**Figure 3:** The north side of Swan Street from Richmond Railway Station



**Figure 4:** Looking east along Swan Street from Bonthrambo Street

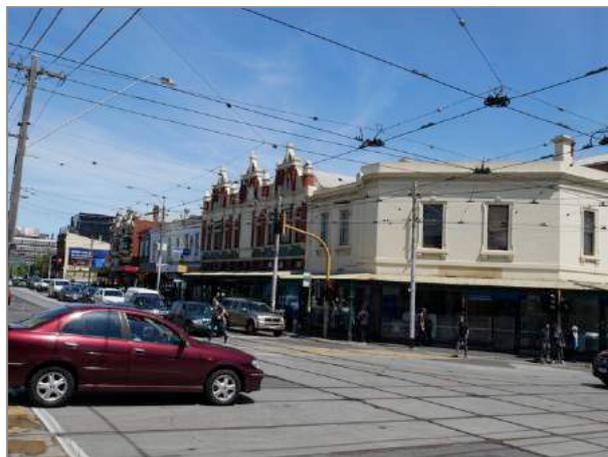
The principal Swan Street High Street commences immediately east of the railway viaduct with the Corner Hotel located on the north side and the former Richmond Post Office on the south side of Swan Street. Between the railway viaduct and the apex of the hill at Brighton Street, Swan Street has a highly consistent Victorian and Edwardian commercial character. The built form ranges from narrow fronted single and two-storey shops with simple parapets, to large two and three-storey commercial buildings with highly decorated facades and parapets. The majority of the heritage buildings are identified as 'contributory' buildings within the Swan Street Precinct, with the larger and more elaborately articulated buildings often identified as 'individually significant'. While their heritage gradings may differ, similar planning controls are required to protect their heritage values and that of the High Street streetscape in its totality. A small number of late twentieth century and early twenty-first century buildings have been constructed as infill in an otherwise highly intact turn of the century streetscape.

This consistent character continues along the west side of Church Street between Swan Street and the railway line to the south. The majority of the buildings on the east side of Church Street have been

redeveloped during the twentieth century. Church Street to the north of Swan Street does not retain the same degree of intactness and as a result does not present as a consistent heritage streetscape. However, the scale remains predominantly two-storey.



**Figure 5:** Looking west along Swan Street from Church Street



**Figure 6:** Looking south along Church Street from Swan Street



**Figure 7:** Looking west along Swan Street from Charles Street



**Figure 8:** 319-333 Swan Street looking east

The intactness and consistency of the streetscape decreases beyond the eastern boundary of the Swan Street Precinct (HO335). East of Brighton Street, the north side of Swan Street contains a mixture of nineteenth century commercial buildings, single and two-storey buildings dating from the early to late twentieth century, and a number of individually significant large-scale buildings including the Central Club Hotel (HO285), the Richmond Drill Hall (HO440), and the Burnley Theatre (HO286). While the majority of these buildings retain a parapeted form, some are atypical such as the Burnley Theatre.

The south side of Swan Street, east of Brighton Street, retains little nineteenth or early twentieth century fabric and the buildings are predominantly of recent construction. Many have at-grade forecourts to the Swan Street frontage.

Further east, at the intersection of Burnley Street, the Burnley Street Precinct (HO474) includes a hotel and eight commercial properties on the north side of Swan Street (including 413 and 415 Swan Street that is included in the Heritage Overlay as HO442). The Burnley Street precinct extends north to include the single and two-storey shops and the terrace of single-storey houses at 345-367 Burnley Street, with 400-402 Burnley Street included within an individual Heritage Overlay (HO429). Together these form a fairly intact row of single and two-storey buildings dating from the late nineteenth and early twentieth centuries. The buildings are generally of more modest scale and detail, typical of a local shopping centre, in contrast to the

larger and more highly detailed buildings of the Swan Street Precinct. Opposite the Burnley Street Precinct, on the south side of Swan Street, are a group of five single-storey early twentieth century houses that have been assessed as not having heritage significance.



**Figure 9:** 395-419 Swan Street looking west



**Figure 10:** West side of Burnley Street from Farmer Street

East of the Burnley Street Precinct, the north side of Swan Street retains little nineteenth or early twentieth century fabric and, like the south side, the buildings are predominantly of recent construction. To the east of Belgravia Street, the north side of Swan Street becomes residential in character and this continues to Park Grove at the eastern end of the Study Area, abutting the Burnley Gardens. The residences on the north side of Swan Street are included within the Bendigo Street Precinct (HO309) and a small number of these houses are contained in the Study Area. The properties on the south side of Swan Street, opposite the Bendigo Street Precinct, are unadorned single and two-storey commercial buildings, which date from the mid-twentieth century onwards.



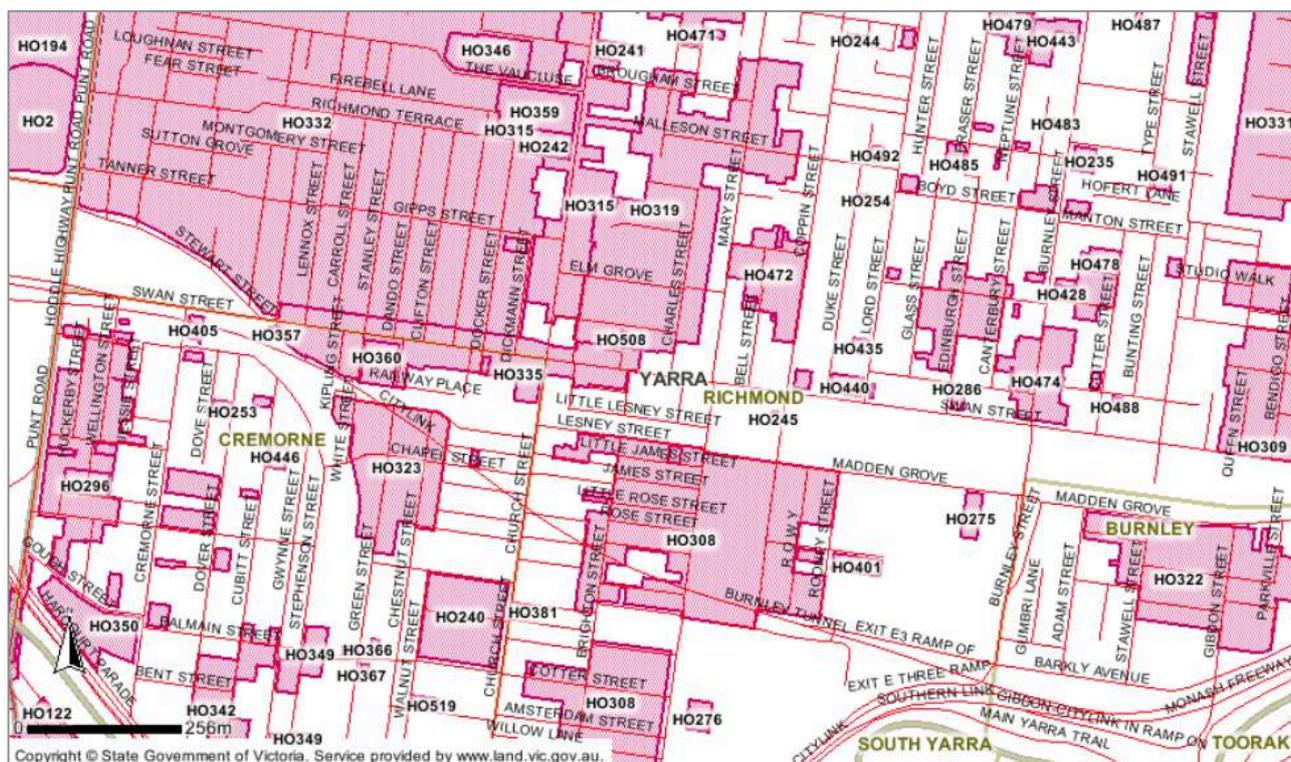
**Figure 11:** 491-591 Swan Street

Over the length of Swan Street the heritage value of the Study Area varies from State-level significance (including the Dimmeys Building), to areas of local significance (such as the Burnley Street Precinct), through to sections with no identified heritage value. The variety of heritage and streetscape character along the Swan Street corridor necessitates a range of mandatory and discretionary built form controls to appropriately manage the differing heritage values of the Study Area. These are discussed in Part III.

## **Part II: Swan Street Heritage Review**

### 3. The Heritage of Swan Street

Swan Street has a rich social, economic and architectural history. This history is reflected in the comprehensive Heritage Overlay coverage for the Study Area.



**Figure 12:** Heritage Overlay map – Swan Street, Richmond (Planning Maps Online – accessed 23 June 2017)

The Schedule to the Heritage Overlay in the Yarra Planning Scheme identifies 12 individual places and seven precincts (in part) within the Study Area that trigger permit considerations under Clause 43.01. The relevant entries in the Schedule to the Heritage Overlay are reproduced in Table 1. Of the 12 individual places, three are included in the Victorian Heritage Register (VHR) and their heritage values are managed through the *Heritage Act 1995*; these are:

- Former State Bank, 216 Swan Street (VHR H732)
- Former Richmond South Post Office, 90-92 Swan Street (VHR H48)
- Dimmeys, 140-160 Swan Street (VHR H2184)

Many of the Heritage Overlays within the Study Area have been in place since the new format planning scheme came into effect; however, a recent amendment to the Yarra Planning Scheme (C183) implemented the *City of Yarra Heritage Gap Study: Central Richmond, 2014*, which included, in part, the inclusion of the Burnley Street Precinct in the Heritage Overlay (HO474) (which incorporates properties on Swan Street). Amendment C183 was gazetted on 15 June 2017.

Clause 22.02 of the Yarra Planning Scheme ('Development Guidelines for Sites Subject to the Heritage Overlay') defines the levels of heritage significance (or gradings) used by Council as:

- *Individually significant:* The place is a heritage place in its own right. Within a Heritage Overlay applying to an area each individually significant place is also Contributory.
- *Contributory:* The place is a contributory element within a larger heritage place. A contributory element could include a building, building groups and works, as well as building or landscape parts such as chimneys, verandahs, wall openings, rooflines and paving.
- *Not contributory:* The place is not individually significant and not contributory within the heritage place.

The levels of significance for each property are identified in the Incorporated Document, *City of Yarra Review of Heritage Overlay Areas 2007 Appendix 8* (as revised) (Appendix 8). The methodologies employed to determine the levels of significance for each place can be found in the relevant heritage study.

The Statements of Significance for each individual place and heritage precinct can be found in the Reference Documents listed in Clause 22.02.

**Table 1:** Extract of the Schedule to the Heritage Overlay in the Yarra Planning Scheme

PS Map Ref	Heritage Place	External Paint Controls Apply?	Internal Alteration Controls Apply?	Tree Controls Apply?	Outbuildings or fences which are Not exempt under Clause 43.01-3?	Included on the Victorian Heritage Register under the Heritage Act 1995?	Prohibited uses may be permitted?	Name of Incorporated Plan under Clause 43.01-2	Aboriginal heritage place?
HO245	234 COPPIN STREET RICHMOND House	Yes	No	No	No	No	No	Incorporated Plan under the provisions of clause 43.01 Heritage Overlay, Planning permit exemptions, July 2014	No
HO285	291 SWAN STREET RICHMOND Former Central Club Hotel	Yes	No	No	No	No	No	Incorporated Plan under the provisions of clause 43.01 Heritage Overlay, Planning permit exemptions, July 2014	No
HO286	365 SWAN STREET RICHMOND Former Burnley Theatre	Yes	No	No	No	No	No	Incorporated Plan under the provisions of clause 43.01 Heritage Overlay, Planning permit exemptions, July 2014	No
HO288	216 SWAN STREET RICHMOND Former State Bank	-	-	-	-	Yes Ref No H732	No		No
HO294	15 WELLINGTON STREET RICHMOND House	Yes	No	No	No	No	No	Incorporated Plan under the provisions of clause 43.01 Heritage Overlay, Planning permit exemptions, July 2014	No
HO309	Bendigo Street Precinct, Richmond	No	No	No	No	No	No	Incorporated Plan under the provisions of clause 43.01 Heritage Overlay, Planning permit exemptions, July 2014	No

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HO315	Church Street Precinct, Richmond	Yes	No	No	No	No	No	Incorporated Plan under the provisions of clause 43.01 Heritage Overlay, Planning permit exemptions, July 2014	No
HO332	Richmond Hill Precinct	No	No	No	No	No	No	Incorporated Plan under the provisions of clause 43.01 Heritage Overlay, Planning permit exemptions, July 2014	No
HO335	Swan Street Precinct, Richmond	Yes	No	No	No	No	No	Incorporated Plan under the provisions of clause 43.01 Heritage Overlay, Planning permit exemptions, July 2014	No
HO357	90-92 SWAN STREET RICHMOND  Former Richmond South Post Office	-	-	-	-	Yes Ref No H48	No		No
HO360	140-160 SWAN STREET RICHMOND (CREMORNE)  Dimmeys	-	-	-	-	Yes Ref No H2184	No		No
HO364	Wellington Street Precinct	No	No	No	No	No	No	No	No
HO405	60-62 SWAN STREET RICHMOND  The Greyhound Hotel, later Depot Hotel, now Precinct Hotel	Yes	No	No	No	No	No	No	No
HO429*	400-402 BURNLEY STREET, RICHMOND	Yes	No	No	No	No	No	No	No
HO440	309 SWAN STREET, RICHMOND  Swan Street Drill Hall	Yes	No	No	No	No	No	No	No

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HO441	319 SWAN STREET, RICHMOND	Yes	No						
HO442*	413-415 SWAN STREET, RICHMOND	Yes	No						
HO474*	Burnley Street Precinct, Richmond	Yes – 377, 380, 400- 402 Burnley St and 413- 415 Swan St only	No						

\* note: both HO429 – 400-402 Burnley Street and HO442 – 413-415 Swan Street are included within the extent of HO474 – Burnley Street Precinct. HO429 is mapped as a separate Heritage Overlay, however HO442 is not.

A key part of the Heritage Review has been to:

- Review the suitability of the extent of the existing Heritage Overlays within the Study Area and to identify where gaps exist (if any); and
- Review the suitability of the existing Statements of Significance for heritage places and precincts against the extant heritage fabric and identify where the statements require updating for the purposes of properly considering built form recommendations.

The findings from this analysis follows.



## 4.1 Precinct Statements of Significance

It is recommended that the Statements of Significance for the Swan Street and Bendigo Street Precincts be updated to more adequately describe their key heritage features as follows:

### 4.1.1 Swan Street Precinct (HO335)

The Swan Street Precinct represents one of the City of Yarra's highly intact turn of the century High Streets.

It is noted that in the early 2000s, the National Trust of Australia (Victoria) embarked on a program to classify – with an aim to nominate to the VHR – those shopping precincts it considered to be of heritage significance to the State of Victoria. The precincts identified by the National Trust as potentially being of State Significance include High Street, Northcote; Chapel Street, Prahran; Glenferrie Road, Hawthorn; Smith Street, Collingwood; Burke Road, Camberwell; Acland Street, St Kilda; and Bridge Road and Swan Streets in Richmond.

It is considered that while the current Statement of Significance broadly captures the architectural qualities of the precinct, it does not adequately reflect the precinct's history and intact turn of the century character.

It is recommended that the Statement of Significance be reviewed and updated, informed by a more detailed social and environmental history for this important High Street.

### 4.1.2 Bendigo Street Precinct (HO309)

The Statement of Significance notes elements that contribute to the entire precinct. The following elements contribute to the Swan Street portion of the precinct. These include:

- Pitched gabled or hipped roofs
- One-storey wall heights
- Face brick walls
- Corrugated iron, tiled and slate roofs
- Brick chimneys

*Suggested additional contributory elements:*

- Consistent building scale and setbacks

## 4.2 Individual Statements of Significance

It is recommended that Statements of Significance for the following individually significant places be updated to more comprehensively describe their key heritage features as follows:

### 4.2.1 Former Greyhound Hotel, 60-62 Swan St, Cremorne (HO405)

The Statement of Significance provides a description of the place. The elements that contribute to the significance of the place are as follows and should be included in the Statement of Significance:

- Two-storey wall height
- Zero front setback
- Regular pattern of rectangular fenestration at upper level
- Corner building which address both Swan Street and Cremorne Street by continuing the pattern of openings and parapet detailing
- Splayed corner
- Strong horizontal lines defining levels.

### 4.2.2 Former State Bank, 216 Swan St, Cremorne (HO288, VHR H0732)

Council's Statement of Significance refers to the VHR Statement of Significance for this place. The description refers to the composition and asymmetry of the façade. It is noted that it would be necessary

for Heritage Victoria to amend their Statement of Significance for the following suggested changes to be captured. This could be achieved via a letter to the Executive Director detailing the suggested updates.

*Suggested additional contributory elements*

- Two-storey wall height divided by strong horizontal lines, including cornices and tall parapet above
- Irregular pattern of fenestration at upper level
- Various curved elements across the façade and at parapet level
- Asymmetrical façade composition
- Parapet and opening detailing continued along west side of the building (Shakespeare Place).

#### **4.2.3 Former Burnley Theatre, 365 Swan St, Richmond (HO286)**

The Building Citation provides a description for the place but does not specifically identify a number of physical features that contribute to the significance of the place.

*Suggested additional contributory elements*

- Capacious building with wide symmetrical façade to Swan Street
- Strong horizontal lines define levels
- Front façade has pattern of windows and engaged columns with wider central bay
- Located on a corner with undecorated side façade to Edinburgh Street
- Large gabled hall behind front façade.

#### **4.2.4 House, 15 Wellington Street, Cremorne (HO294)**

This place has recently undergone extensive restoration and renovation works resulting in some inaccurate descriptions in the Statement of Significance. The following updates are suggested:

- Recent re-rendering of external walls
- Removal and replacement of cast iron friezes and balustrading
- Reinstatement of a previously bricked in ground level window opening.

## 5. Heritage Overlay Extents and Grading Review

A review of the extent of the existing Heritage Overlays in the Study Area has been undertaken as part of this Heritage Review. The purpose of this work has been to identify any additional places or precincts of potential heritage significance. The heritage gradings of individual buildings within existing heritage precincts, as listed in Appendix 8, has also been reviewed.

In general terms, the Heritage Overlay coverage and gradings within the Study Area is comprehensive and consistently applied. It is considered that a small number of places warrant further investigation for inclusion in the Heritage Overlay or re-grading in Appendix 8 as detailed below.

### 5.1 Places with potential for inclusion in the Heritage Overlay on an individual basis

The following places are not currently included in the Heritage Overlay. From our review, when comparing these places with others already included as ‘individually significant’ within HO335 Swan Street Precinct, we believe that further investigation for potential inclusion in the Heritage Overlay is warranted.

#### 5.1.1 273 Swan Street

This building is located on the north side of Swan Street at the east corner of Bell Street. It is a two-storey Victorian building with solid parapet, rectangular window openings at ground and first floor level and corner splay with blank arched recess at the upper level. The building addresses both Swan and Bell Streets.

This place is considered to be of potential individual significance.



Figure 14: 273 Swan Street

#### 5.1.2 323-325 Swan Street

This pair of two-storey Victorian shops and residences is located on the north side of Swan Street. The double-storey facades have solid parapets, pairs of double hung windows with bracketed window hoods and lion head motifs at the base of strip pilasters at first floor level.

This place is considered to be of potential individual significance.



**Figure 15:** 323-325 Swan Street



**Figure 16:** 319-325 Swan Street

## **5.2 Places with potential for inclusion in the Heritage Overlay as part of a precinct**

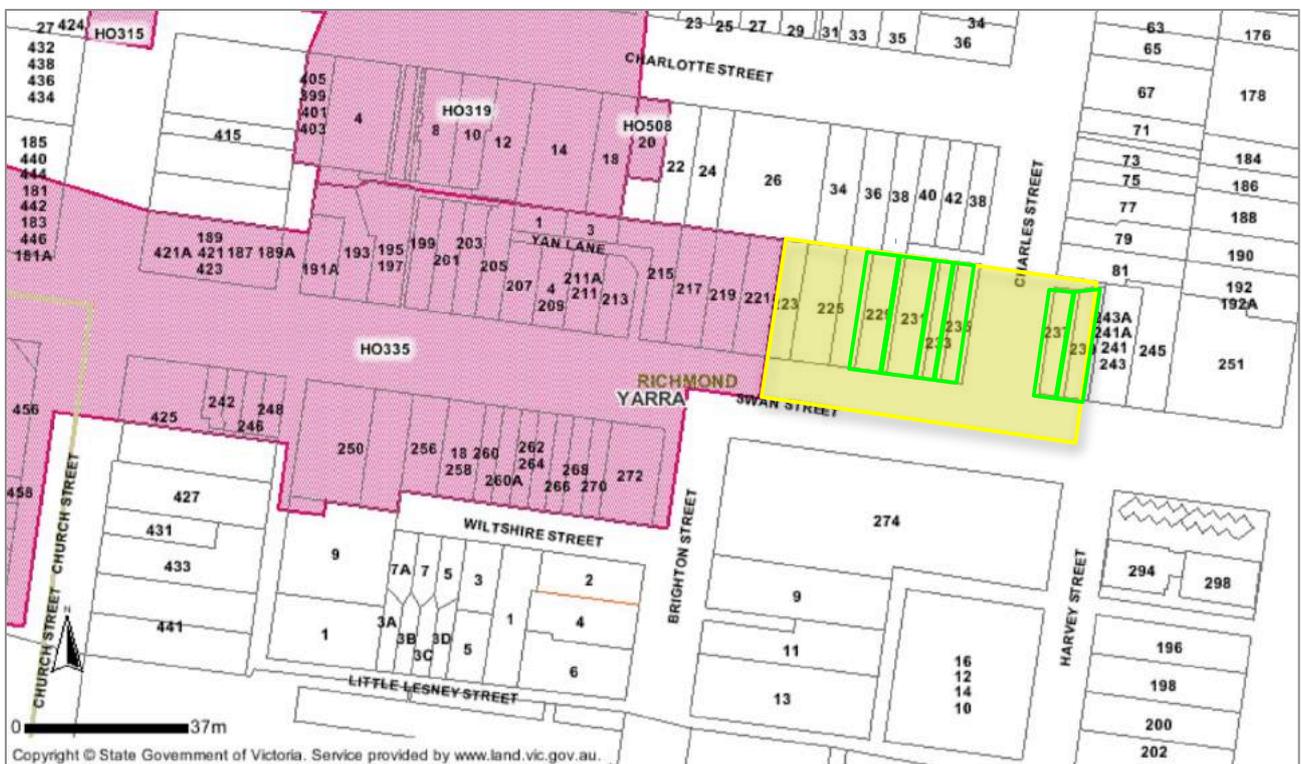
The following place is not currently included in the Heritage Overlay. From our review, we believe that further investigation could be considered for potential inclusion in a precinct-based Heritage Overlay.

### **5.2.1 229-239 Swan Street**

The east end of the northern side of the Swan Street Precinct terminates at a single-storey non-contributory building at 221 Swan Street which is next door to a two-storey Victorian shop and residence at 219 Swan Street. 219 Swan Street is an individually significant building within the precinct. Further to the east are a group of two-storey Victorian shops and residences from 229-239 Swan Street, which flank Charles Street. 229-235 Swan Street is a group of four buildings with various unadorned facades, simple parapets and rectangular window openings at first floor level. 237-239 Swan Street is a pair of two storey buildings with unadorned facades, simple parapets and regular window openings at first floor level. 237 Swan Street addresses both Swan and Charles Streets. The buildings between 221 and 229 Swan Street are considered to be non-contributory.



**Figure 17:** East end of existing Swan Street Precinct showing the two-storey Victorian at 219 Swan Street to right (end of the Swan Street Precinct)

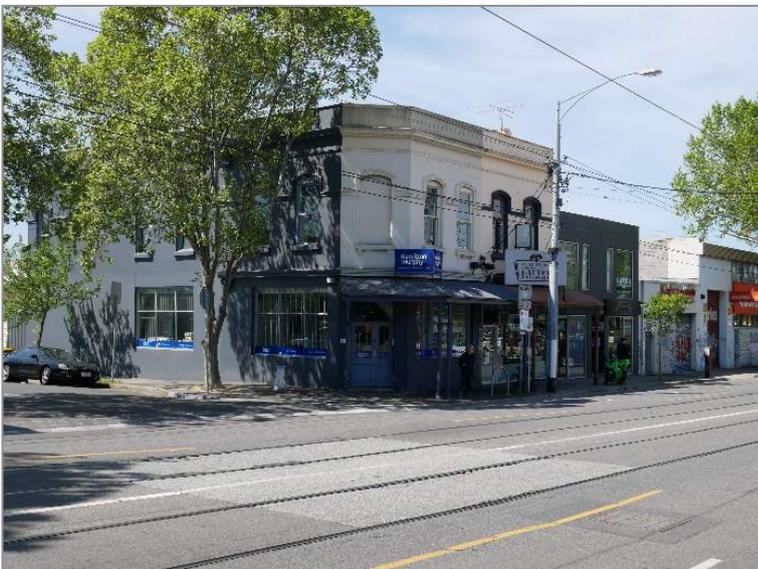


**Figure 18:** Eastern end of HO335 showing the proposed extension shown in yellow with potentially 'contributory' buildings identified in green. (Planning Maps Online, accessed 16 December 2016)

The buildings at 229-239 are considered to be of potential contributory significance to the Swan Street Precinct and it is recommended that HO335 potentially be extended to include 223-239 Swan Street.



**Figure 19:** 229-235 Swan Street



**Figure 20:** 237-239 Swan Street

### **5.3 Possible amendment to gradings of buildings in existing heritage precincts**

The following places are already included in Heritage Overlay precincts. From our review, we believe that their current grading within Appendix 8 as either ‘contributory’ or ‘unknown’ could be reviewed as their contribution to the precinct is less than comparative examples or their integrity has been diminished to such a point that anything above a ‘non-contributory’ grading is no longer justified.

#### **5.3.1 129 Swan Street**

The three buildings at 127-133 Swan Street are located on the north side of Swan Street in the Swan Street Precinct. Development has occurred above and to the rear of these buildings and this has impacted on their presentation to Swan Street.

The current heritage gradings of these buildings is as follows:

- 127 Swan Street - non-contributory
- 129 Swan Street – unknown
- 133 Swan Street - non-contributory

The meaning of ‘unknown’ significance is unclear. Even if original fabric exists in the retained façade, it is considered that 129 Swan Street has been so compromised by the development behind and the inappropriate treatment of its façade and first floor windows that it no longer makes a positive contribution to the streetscape. It is considered 129 Swan Street is now ‘non-contributory’ to the Swan Street Precinct.



**Figure 21:** 127-133 Swan Street

### 5.3.2 218 Swan Street

This simple, single-storey parapeted building is located on the south side of Swan Street in the Swan Street Precinct. It is flanked by an ‘individually significant’ building to the west and a ‘non-contributory’ building to the east.

The current heritage grading of this place is ‘contributory’, however it is considered that it is potentially ‘non-contributory’ to the precinct due to the limited architectural detail that remains, that is a low parapet with unremarkable cornice and brackets.



**Figure 22:** 218 Swan Street (butcher)

### 5.3.3 67 Docker Street

Although 65 and 67 Docker Street are identical mid-Victorian houses, 65 Docker Street is identified as ‘not contributory’ while 67 Docker Street is identified as ‘contributory’. This pair of houses are so heavily altered that their nineteenth century form is almost unrecognisable and consideration should be given to regrading 67 Docker Street as ‘not-contributory’ to match its immediate neighbour to the north.



**Figure 23:** 65-67 Docker Street (©Google accessed 5 Dec 2016)

## 5.4 Places identified that have previously been considered in heritage studies

Generally this review has not considered any places known to have been previously assessed for inclusion in the Heritage Overlay (for example in G Butler *City of Yarra Gap Study Stage 2*, 2009) and determined not to satisfy the criteria or threshold for inclusion.

However, the following group of buildings identified during the fieldwork as potentially warranting inclusion on the Heritage Overlay were previously identified by Graeme Butler & Associates. Although they were not taken forward to a planning scheme amendment, it is our view that there remains a *prima facie* case for consideration for inclusion in the Heritage Overlay.

### 5.4.1 30-40 Swan Street

This row of four parapeted buildings (three Victorian-era and one Edwardian-era) is located to the west of the railway viaduct and is not visually connected with the majority of the Swan Street Precinct. Although of varying height, scale and date of construction, together the buildings form a small but recognisable group that are of potential significance as a small heritage precinct. In particular, the three-storey building at 34 Swan Street is highly intact. The house at 15 Wellington Street (HO294) is nearby, as is the Precinct Hotel to the immediate east of Cremorne Street.

This group was previously assessed and recommended for inclusion by Graeme Butler in his 2009 gap study, and it is recommended that these four buildings be considered for inclusion on the Heritage Overlay as a small precinct.



**Figure 24:** 30-40 Swan Street.



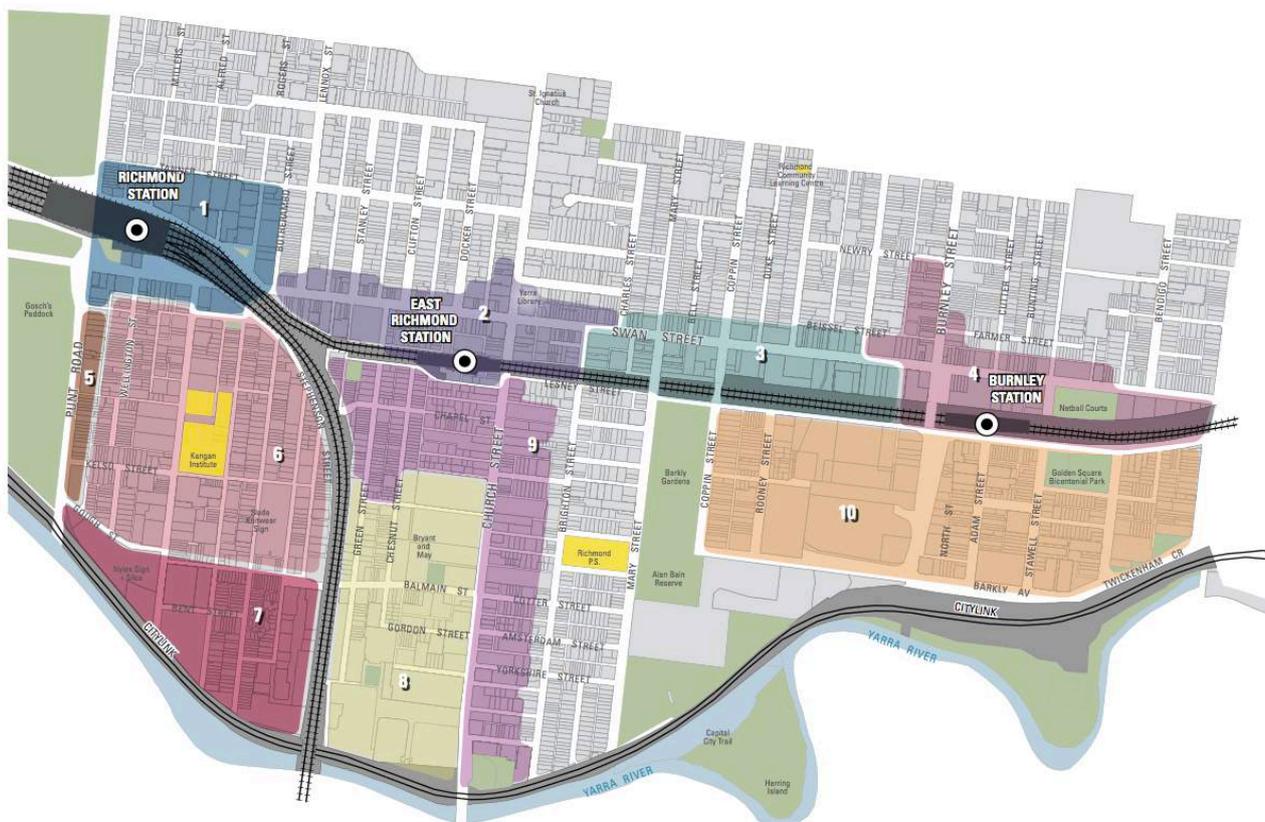
## **Part III: Heritage Advice – Swan Street Built Form Study**

Part III considers the SSSP and draft Study in the context of the heritage of the Study Area. An analysis against recent relevant Planning Panel and VCAT decisions is also provided. Recommendations for the shaping of potential DDO controls are provided to ensure heritage places and values are appropriately managed within this changing Major Activity Centre.

## 6. The Swan Street Structure Plan

### 6.1 Swan Street Structure Plan - Strategic Context

The SSSP sets out built form, land use, public realm, and access and movement objectives and strategies for Swan Street and the surrounding area. The SSSP extends beyond the area considered in the Study, taking in land from the Yarra River to the south to just north of Swan Street. It identifies a number of principles relating to built form that provides a basis for recommended building heights and recommends further investigation for appropriate zoning to the east of the Study Area to enable mixed use development.



**Figure 26:** Swan Street Structure Plan area (© David Lock & Associates, SSSP, p.3)

Of the ten precincts identified within the SSSP, five fall within the Study Area:

- Precinct 1 - Richmond Station (part)
- Precinct 2 - Swan Street Retail (part – except East Richmond Railway Station)
- Precinct 3 - Swan Street East (part – except rail corridor)
- Precinct 4 - Burnley Station Village (part)
- Precinct 6 – Cremorne Mixed Use (a very small part at the top the precinct)

The SSSP discusses the heritage provisions of the Yarra Planning Scheme under Section 1.5 ‘Policy Basis’, referring to the heritage policy contained in Clause 22.02 of the Yarra Planning Scheme and the reference made to heritage in Clause 22.10 ‘Landmarks and Tall Structures’. Section 2 ‘Overview of Key Issues’ notes

the potential impact of taller buildings on heritage fabric, and provides the following commentary on the role of heritage places and the challenges faced within the SSSP:

### **Heritage**

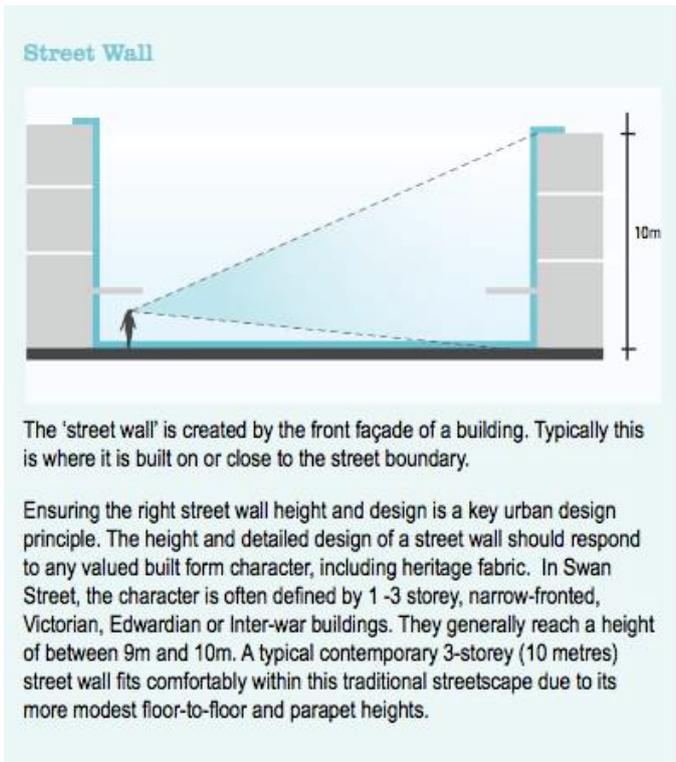
*The area is architecturally diverse with buildings encompassing a range of styles from 1860's to the present. As part of this diversity, extensive heritage fabric is found in existing residential areas and parts of the main retail core along Swan Street. Heritage buildings play a significant role in the character and identity of the area and there are many fine examples of historic buildings and streetscapes. A significant part of the Structure Plan area is covered by a Heritage Overlay which influences the extent of potential change to buildings, as shown in figure 7.*

*There are a number of large sites with significant heritage value such as Bryant and May, Dimmeys, Maltings and the Rosella complex that present particular challenges with any future conversion of land use, adaption and reuse of existing buildings. The contraction in the manufacturing sector has led to the under utilisation of several large sites due to constraints faced in converting existing uses and pursuing broader redevelopment. Many of these sites house buildings that cannot be easily adapted to accommodate new uses and this challenge is amplified when buildings include heritage fabric that must be retained.*

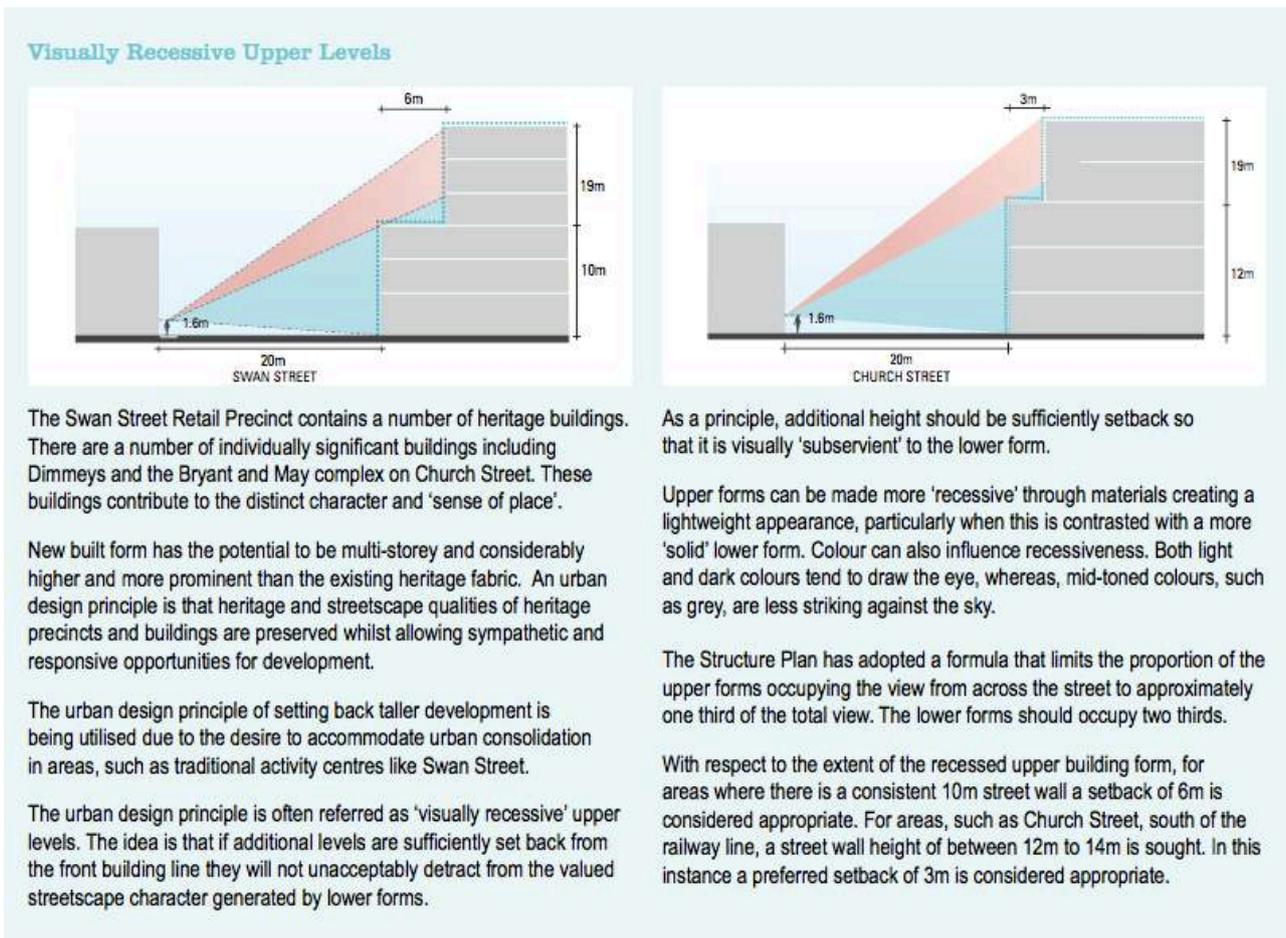
*There is increasing demand for new development and pressure to redevelop existing areas to higher densities. As new development occurs, however, there is a risk that the character of the local area can be significantly altered. Established low scale residential areas are particularly sensitive to the impacts of new development. In these areas the process of residential intensification – the redevelopment of existing low-density housing with new, denser housing types – often creates tension with local residents who value the existing character and wish to retain it into the future.*

*Providing more certainty as to where and how new development will occur can help alleviate community concerns about new development. The development of a robust land use and built form framework that effectively controls development to the benefit of the whole community will play a key part in appropriately managing the tension between the desire for higher density development and the desire to preserve the existing heritage character.*

Urban design principles outlined on pages 18 to 20 of the SSSP identify the typical one to three-storey street wall height of Swan Street and the predominance of narrow-fronted Victorian, Edwardian and Inter-war era commercial buildings (see Figure 27). The principles established in the SSSP support new development occurring behind heritage buildings and facades. To ensure a visually recessive response to heritage places, upper levels of new development are proposed to occupy the upper one-third of the view from the street and the heritage façade the lower two-thirds (see Figure 28), that is a ratio of 1/3 upper level development to 2/3 street wall. The principles also note the importance of colour and materiality in creating a recessive design response. The SSSP also identifies a typical existing street wall height of between 9m and 10m.



**Figure 27:** Diagram explaining the concept of the 'street wall' (© David Lock & Associates, SSSP, p.18)



**Figure 28:** Diagram illustrating setbacks to achieve recessive upper level development (© David Lock & Associates, SSSP, p.19)

## 6.2 SSSP Heritage Analysis

The following provides a brief analysis of the heritage context for each of the four SSSP precincts falling within the Study Area.

### 6.2.1 Richmond Station (Precinct 1) and Cremorne Mixed Use (Precinct 6)

The Study Area includes the majority of Precinct 1 lying south of the rail corridor. It also includes a small number of properties within Precinct 6 (6, 8 and 10 Cremorne Street and 2 and 4 Jessie Street). The SSSP notes the degraded nature of this area. The heritage attributes of this precinct are:

#### **Victorian Heritage Register**

None

#### **Individual Heritage Overlays**

HO294 – ‘House’, 15 Wellington Street, Cremorne

HO405 – ‘The Greyhound Hotel, later Depot Hotel, now Precinct Hotel’, 60-62 Swan Street, Cremorne

#### **Precinct Heritage Overlays**

HO364 – Wellington Street Precinct (only to the extent 375 and 377 Punt Road – on which two houses were located that were demolished between November 2007 and March 2014)

The objectives and strategies within the SSSP for the Richmond Station precinct relating to heritage are:

#### **Land Use**

##### Strategies

- *Support reuse and adaption of existing heritage buildings*

#### **Built Form**

##### Objectives

- *To encourage development that is respectful of the heritage character of the area*

### 6.2.2 Swan Street Retail (Precinct 2)

The Study Area contains the entirety of Precinct 2 with the exception of the East Richmond Railway Station south of the rail corridor. The Swan Street Retail Precinct is one of a limited number of highly intact and significant High Streets that defined the inner suburbs of late nineteenth and early twentieth century Melbourne.

The SSSP notes that heritage buildings are a defining feature of the precinct. In particular the SSSP notes that:

- *Heritage buildings on the south side of Swan Street with their detailed façades and parapets provide visual interest and streetscape character.*
- *Dimmeys remains as an iconic building in the area. The Clocktower is a particularly significant feature which has been identified as an important landmark in the City. Views to the clock tower from the east and west along Swan Street have been identified as primary views to protect.*
- *Development potential on the north side of Swan Street is constrained by the configuration of lots being narrow, shallow and having a direct interface with the heritage residential area to the north.*

This precinct also contains the three places of State-level significance, which are included on the VHR.

The heritage attributes of this precinct are:

#### **Victorian Heritage Register**

H0048 – Former Richmond South Post Office, 90-92 Swan Street, Cremorne (HO357)

H2184 – Dimmeys, 40-160 Swan Street, Cremorne (HO360)

H0732 – State Bank, 216 Swan Street, Cremorne (HO288)

### Individual Heritage Overlays

None (other than VHR places)

### Precinct Heritage Overlays

HO315 – Church Street Precinct, Richmond

HO332 – Richmond Hill Precinct

HO335 – Swan Street Precinct, Richmond

The Precinct 2 boundary directly abuts HO319 – Elm Grove Precinct, Richmond.

The majority of the Swan Street Retail Precinct is subject to HO335 – Swan Street Precinct, Richmond. The Statement of Significance for HO335 reads (in part):

*The Swan Street Heritage Overlay Area, Richmond is significant:*

- *As one of the two major early commercial thoroughfares in the former City of Richmond, with a good collection of well-preserved, mainly Victorian and Edwardian commercial buildings, containing a mixture of shops, hotels and other commercial buildings, many of which are substantially intact at first floor level, with a number of historic shopfronts at ground floor, including those dating from the interwar period;*
- *For the landmark or individually significant buildings from all eras including early hotels, from the gold rush era, and famous retail stores such as Maples, Dimmey's and Ball and Company, many with architecturally significant upper facades; and*
- *As a good illustration of commercial architectural styles in the City, from the late 1850s to the inter-war period<sup>1</sup>*

The objectives and strategies within the SSSP for the Swan Street Retail precinct relating to heritage are:

### Built Form

#### Objectives

- *Provide opportunities for development while respecting the existing scale and character of the heritage precinct.*
- *To ensure Dimmey's Ball Tower remains the principal built form reference in this precinct.*
- *Ensure the prominence of heritage parapets is retained.*

#### Strategies

- *Rebuild/reinforce the street wall height along Swan Street to create a consistent 3 storey built form.*
- *Development above the street wall should be set back and visually recessive.*
- *Ensure new development expresses a fine-grain incorporating vertical design elements that complement the existing heritage streetscape.*
- *Ensure upper level development provides building setbacks from the building parapets.*
- *Ensure that the prevailing fine-grain pattern is preserved where site consolidation or development of larger sites occurs.*
- *Ensure new buildings are built to the street boundary and both side boundaries at the street interface.*
- *Protect primary views of the Dimmey's Ball Tower along Swan Street. Taller forms up to 30m (7-10 storeys) should be sufficiently setback to ensure they do not interrupt views of Dimmey's Ball Tower from primary views within Swan Street.*

<sup>1</sup>

Swan Street Precinct – Statement of Significance, City of Yarra (Victorian Heritage Database, accessed 15 December 2016).

### 6.2.3 Swan Street East (Precinct 3)

The Study Area includes the whole of Precinct 3 with the exception of the rail corridor. The SSSP acknowledges the lower number of buildings with heritage value compared with the Swan Street Retail precinct and the opportunity this provides for redevelopment within Precinct 3.

The heritage attributes of this precinct are:

**Victorian Heritage Register**

None

**Individual Heritage Overlays**

HO245 – House, 234 Coppin Street, Richmond

HO285 - Former Central Club Hotel, 291 Swan Street, Richmond

HO440 - Swan Street Drill Hall, 309 Swan Street, Richmond

HO441 – 319 Swan Street, Richmond

**Precinct Heritage Overlays**

None

There are no objectives or strategies within the SSSP that specifically address heritage within Precinct 3 other than the urban design principles to create a three-storey street wall to Swan Street and to ensure that development above the street wall is set back and visually recessive.

### 6.2.4 Burnley Village (Precinct 4)

The Study Area includes the majority of Precinct 4 but does not include the rail corridor. The Study Area takes in two properties at the corner of Swan and Queen Streets (499 and 501 Swan Street) that are not included within Precinct 3 of the SSSP. The SSSP acknowledges the reduced number of buildings with heritage value compared with the Swan Street Retail precinct and the opportunity this provides for redevelopment within Precinct 4.

Yarra Amendment C183 introduced HO474 – Burnley Street Precinct, Richmond within the Burnley Village precinct. The Statement of Significance for the Burnley Street Precinct states:

*Historically, the precinct is a representative example of a shopping centre serving local needs that developed in response to the significant population growth of Richmond in the late nineteenth and early twentieth centuries.<sup>2</sup>*

The assessment against criteria goes on to say:

*This precinct demonstrates how the first local shopping centres in Richmond developed around early hotels, usually at the intersection of main roads and close to a railway station. The mix of single and double storey shops and residences, the corner hotel and a former bank are all characteristic of the centres that developed prior to World War I.<sup>3</sup>*

The Statement of Significance recognises the importance of Burnley Street as a typical example of an early local mixed retail and residential area in the municipality.

The heritage attributes of this precinct are:

**Victorian Heritage Register**

None

**Individual Heritage Overlays**

HO286 - Former Burnley Theatre, 365 Swan Street, Richmond

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<sup>2</sup> Heritage Gap Study – Review of Central Richmond (Context P/L, 12 November 2014), p.91

<sup>3</sup> *ibid.* p.90

HO429 – 400-402 Burnley Street, Richmond (also included within HO474)

HO442 – 413-415 Swan Street, Richmond (also included within HO474)

**Precinct Heritage Overlays**

HO309 - Bendigo Street Precinct, Richmond (493-501 Swan Street)

HO474 – Burnley Street Precinct, Richmond

Precinct 4 also includes HO238 – Former Bank of Australasia (377 Burnley Street) and HO429 – 400-402 Burnley Street, but these places fall outside the Study Area for this project.

There are no objectives or strategies within the SSSP that specifically address heritage within Precinct 4 other than the urban design principles that seek to create a three-storey street wall to Swan and Burnley Streets and to ensure that development above the street wall is set back and visually recessive.

## 7. The Yarra Planning Scheme

Following is a brief analysis of the recommendations arising from the SSSP and the preliminary findings of the Study against Council's heritage planning framework.

### 7.1 Activity Centre Planning and Heritage

The *Planning & Environment Act 1987* and the Victoria Planning Provisions (VPP) requires planning and responsible authorities to take a balanced approach to strategic and statutory planning functions and to consider potentially competing objectives in an integrated manner to deliver a net community benefit for current and future generations.

The objectives of planning in Victoria as set out in Section 4(1) of the Planning and Environment Act are:

- *To provide for the fair, orderly, economic and sustainable use and development of land.*
- *To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*
- *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*
- *To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*
- *To protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community.*
- *To facilitate development in accordance with the objectives set out in the points above.*
- *To balance the present and future interests of all Victorians.*

Clause 10.04 of the VPP addresses 'integrated decision making', and states:

*Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.*

*Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.*

Activity Centres identified in *Plan Melbourne* that are also subject to extensive Heritage Overlay controls (like Swan Street) are examples of where the tension between competing planning objectives must be resolved in a balanced way. Swan Street has excellent public transport connections, vibrant commercial and hospitality uses, and a high demand for housing choice. It is also – in part – a highly intact turn of the century High Street containing heritage fabric that is valued by the community. A balance between the demand for higher density development with the protection of the heritage buildings and precincts is therefore required. To achieve this, it is considered necessary that the DDO – and the background work that underpins it – specifically includes heritage considerations which frames the design objectives in terms of mandatory and discretionary controls.

### 7.2 Yarra Planning Scheme – Heritage Provisions

Council has well-established heritage provisions within its planning scheme at Clauses 21.05-1 and 22.02. Also of relevance to the protection of Swan Street's heritage values is Clause 22.03, which includes policy to protect the visual prominence of the Dimmeyes tower in addition to other landmarks within the municipality.

#### 7.2.1 Heritage policy

The relevant objective within Clause 21.05-1 'Heritage' of the Municipal Strategic Statement (MSS) is

*Objective 14: To protect and enhance Yarra's heritage places.* The relevant strategies to implement this objective are:

- *Strategy 14.1 - Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.*
- *Strategy 14.3 - Protect the heritage skyline of heritage precincts.*
- *Strategy 14.4 - Protect the subdivision pattern within heritage places.*
- *Strategy 14.6 - Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*

Objective 14 and its associated strategies are considered to be compatible with appropriately sited and scaled higher density development on Swan Street as envisaged by the SSSP and the Study, although it would need to be accepted that in most cases Strategy 14.3 'Protect the heritage skyline of heritage precincts' would not be effectively achieved.

Clause 22.02 'Development Guidelines for Sites Subject to the Heritage Overlay' provides detailed guidance within the Local Planning Policy Framework (LPPF) on development within the Heritage Overlay, including demolition. The relevant objectives of Clause 22.02 are:

- *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 preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
- *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
- *To ensure that additions and new works to a heritage place respect the significance of the place.*
- *To encourage the retention of 'individually significant' and 'contributory' heritage places.*
- *To protect archaeological sites of cultural heritage significance.*

Again, these objectives do not preclude higher density development along Swan Street with the possible exception of '*To preserve the scale ... of streetscapes in heritage places*', which the SSSP and Study seeks to manage through the retention of a three-storey street wall and setting back of higher built form.

The demolition policy provided at Clause 22.02-5.1 encourages the retention of 'individually significant' and 'contributory' buildings within a heritage precinct. Removal of part of a heritage place or contributory element is contemplated if (in general terms) it can be demonstrated that the removal of the part will not adversely affect the significance of the building, or – for a contributory building – the part is not visible from the street, abutting a park or public open space.

Given that the significance of most heritage places within the Study Area lies predominantly in their streetscape presentation, facade detailing and fine-grained pattern of subdivision, it is considered that a certain amount of rear demolition and redevelopment can be contemplated under the existing heritage policy.

Further, with the exception of those heritage places included on the VHR – and therefore regulated under the *Heritage Act 1995* – internal controls do not apply to the Study Area.

Combined, the planning scheme effectively limits the control of heritage fabric within the Study Area to that which is visible from the public realm, including street facades, rear laneway views (where they exist) and visible roof and chimney elements.

In relation to 'New Development, Alterations and Additions', Clause 22.02-5.7.1 sets out the following policy:

## General

*Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*

- *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
- *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
- *Be visually recessive and not dominate the heritage place.*
- *Be distinguishable from the original historic fabric.*
- *Not remove, cover, damage or change original historic fabric.*
- *Not obscure views of principle façades.*
- *Consider the architectural integrity and context of the heritage place or contributory element.*

*Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.*

*Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.*

*Minimise the visibility of new additions by:*

- *Locating ground level additions and any higher elements towards the rear of the site.*
- *Encouraging ground level additions to contributory buildings to be sited within the ‘envelope’ created by projected sight lines (see Figure 1).*
- *Encouraging upper level additions to heritage places to be sited within the ‘envelope’ created by projected sight lines (for Contributory buildings refer to Figure 2 and for Individually significant buildings refer to Figure 3).*
- *Encouraging additions to individually significant places to, as far as possible, be concealed by existing heritage fabric when viewed from the front street and to read as secondary elements when viewed from any other adjoining street.*

*Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.*

While the urban design principles in the SSSP and the Study for upper level setbacks are generally compatible with the intention for development of contributory and significant elements under Council’s heritage policy, discretion would need to be applied in relation to the requirements for the full or partial concealment of rear additions described in Figures 2 and 3 of Clause 22.02 (refer Appendix 1). This sightline-based guidance in the heritage policy is designed to preserve and enhance the character and appearance of predominantly one and two-storey dwellings and cannot be readily applied to multi-storey development within an Activity Centre without unreasonably constraining development.

Likewise, the policy to ‘Discourage elements which ... are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies’ may not achieve appropriate urban design and architectural outcomes in areas such as Swan Street. In such areas a ‘contrasting’ or ‘interpretative’ design approach for new taller development is likely to be more recessive than a ‘respectful’ or ‘historicist’ one that would lead to the new additions inappropriately mimicking the historic form and being more visually intrusive. This is demonstrated in the redevelopment of the Dimmeys site.

Clause 22.02-5.7.2 provides the following specific policy that applies to buildings on Swan Street that are subject to the Heritage Overlay:

### **Corner Sites and Sites with Dual Frontages**

*Encourage new building and additions on a site with frontages to two streets, being either a corner site or a site with dual street frontages, to respect the built form and character of the heritage place and adjoining or adjacent contributory elements to the heritage place.*

*Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection.*

...

### **Industrial, Commercial and Retail Heritage Place or Contributory Elements**

*Encourage new upper level additions and works to:*

- *Respect the scale and form of the existing heritage place or contributory elements to the heritage place by being set back from the lower built form elements. Each higher element should be set further back from lower heritage built forms.*
- *Incorporate treatments which make them less apparent.*

The above two specific policies will help to effectively inform development proposals and statutory planning decision-making to ensure that the heritage values of Swan Street are maintained while accommodating larger scale development and are consistent with the SSSP and Study.

## **7.2.2 Landmarks and Tall Structures**

Clause 22.03 – ‘Landmarks and Tall Structures’ identifies a number of landmark buildings and advertising signs to which views should be protected. The ‘Ball Tower’ of Dimmeys in Swan Street is one such landmark.

The relevant policies include:

- *Maintain the prominence of Yarra’s valued landmark signs.*
- *Protect views to the silhouette and profile of Yarra’s valued landmarks to ensure they remain as the principal built form reference.*
- *Ensure the profile and silhouette of new tall structures adds to the interest of Yarra’s urban form and skyline.*

The policy seeks to ensure new buildings within the vicinity of the Dimmeys Tower are designed to ensure the landmark remains the principal built form reference in the area.

## **7.2.3 Heritage Overlay**

The head heritage provision of the VPP, Clause 43.01 ‘Heritage Overlay’, has the following purpose:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *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 specifically identified 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.*

Clause 43.01-4 sets out decision guidelines - in addition to those included in Clause 65 - that the Responsible Authority must consider before determining a permit application. These are:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable statement of significance, heritage study and any applicable conservation policy.*

- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
- *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed subdivision will adversely affect the significance of the heritage place.*
- *Whether the proposed subdivision may result in development which will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the lopping or development will adversely affect the health, appearance or significance of the tree.*

While some of these considerations are not obviously consistent with the addition of higher density development behind heritage buildings, the first purpose and first decision guideline encompasses the whole SPPF and LPPF (integrated decision-making). Therefore a balance must be struck between achieving the objectives of the Heritage Overlay and meeting the objectives of other parts of the VPPs including Activity Centre policy and commercial zoning. It is noted that new rear development can often be accommodated behind heritage buildings in commercial precincts without substantially compromising the identified significant values of these heritage places.

## 8. Heritage in Design and Development Overlays

Planning Panels Victoria has recently considered three Planning Scheme Amendments that are of direct relevance to the Study and this Heritage Review. Two council-led amendments, Banyule Amendment C93 and Moreland Amendment C134, introduced DDOs to implement Structure Plans for Activity Centres subject to existing heritage controls. Melbourne Amendment C240 was prepared by the Minister for Planning and implemented mandatory and discretionary height and setback controls to the Bourke Hill Precinct through a new DDO as well as amendments to the Heritage Overlay within the precinct.

All three amendments considered the appropriateness of mandatory controls in the context of PPN59 and provide guidance in which circumstances they should be applied. In response to submissions they also considered the issue of whether or not the DDO control should include objectives to protect heritage or whether this should be the sole domain of the Heritage Overlay provisions.

These reports provide useful guidance on the form and wording of DDO controls. In summary, Panel has concluded that:

- The Heritage Overlay identifies what is significant within an Activity Centre.
- Heritage is an appropriate issue for DDOs to provide guidance on to inform future development.
- Mandatory controls should be used in exceptional circumstances and their application should be guided by PPN59 and PPN60.
- Formulae defining the proportion of new built form that can be viewed above the street wall is an appropriate mechanism for informing the design and massing of new built form.

These three reports are discussed in further detail at Appendix 2, with discussion on the most relevant of these, Moreland Amendment C134 provided below.

### 8.1 Moreland Amendment C134

Sydney Road, Brunswick – like Swan Street – is a Major Activity Centre with highly intact, predominantly Victorian streetscapes covered by the Heritage Overlay. Both Activity Centres share common traits within their commercial cores including being tram routes, the same width of carriageway (approx. 20m), the same mix of historic and current uses, similar historic built form (generally two and three-storey Victorian-era commercial buildings), a high proportion of ‘contributory’ and ‘individually significant’ buildings with a high level of intactness, and similar existing street wall heights (generally between 8m and 11m).

The Statement of Significance for Moreland HO149 – Sydney Road Precinct<sup>4</sup> notes the precinct is of historical, architectural and social significance to the City of Moreland. It includes a number of close similarities with the Statement of Significance for HO335 - Swan Street Precinct, including:

- Importance as a predominantly intact late 19th and early 20th century retail and commercial strip;
- Reflecting the considerable expansion and growth of the streets, and the suburbs as a whole, during the 19th century Boom period; and
- Largely intact upper floor facades of the shops.

Gazetted on 11 August 2016, Moreland Amendment C134 introduced DDO18, DDO19 and DDO20. DDO18 set mandatory street wall heights on Sydney Road north of Brunswick Road of between 8m and 11m.

DDO18 also provides a preferred minimum 5m setback for development above the street wall and establishes a preferred ratio of 1/4:3/4 new visible built form to street wall through the following design objective:

- *Be designed to ensure that it occupies no more than one quarter of the vertical angle defined by the*

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<sup>4</sup> Retrieved from Victorian Heritage Database, 16 June 2017  
(<http://vhd.heritagecouncil.vic.gov.au/places/56076#sthash.7LcbbSIM.dpuf>)

whole building in the view from an eye-level of 1.7 metres<sup>5</sup> on the opposite side of the street, as illustrated in Figure 1 below.

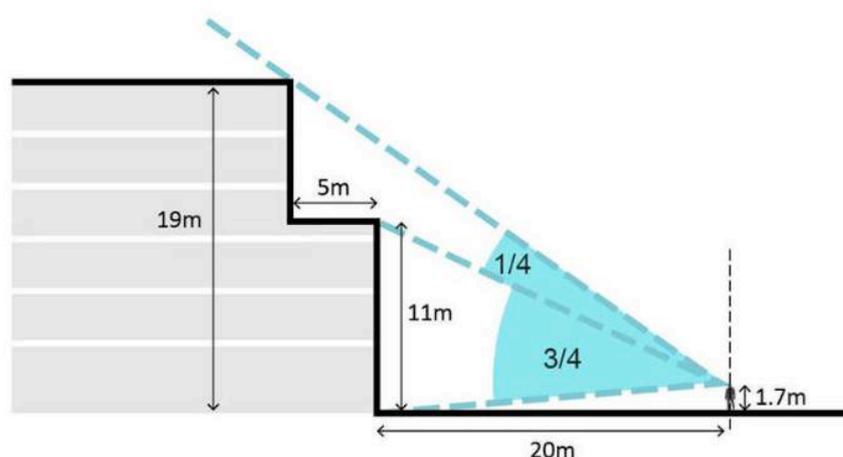
DDO18 goes on to note that:

- Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons new development may occupy more than one quarter of the vertical angle defined by the whole building outlined in Figure 1 above.

DDO19 and DDO20 establish built form controls for the Lygon Street Local Area and the Nicholson Street Local Area respectively. Although both areas are within the Brunswick Street Activity Centre, neither establish mandatory built form controls or sight line ratios of new built form compared with the street wall.

In relation to the use of mandatory controls, the application of DDO18 and Panel's support for it in relation to street wall height is a useful precedent for Swan Street. Likewise, the adoption of an albeit discretionary ratio of new built form to street wall is relevant to Swan Street given the proposed similar control in the SSSP and the Study.

The strategic work to support the SSSP identified an acceptable ratio of 1/3:2/3 new visible built form to street wall. Like Moreland DDO18, the SSSP proposes a 1.7m eye height; however Council should consider retaining consistency with existing controls within Clause 22.02 and amend this to read 1.6m in the DDO control.



**Figure 29:** Upper level setbacks along Sydney Road (Figure 1 in Moreland DDO18, retrieved 2 June 2017).

There are practical and regulatory issues with the DLA sight line analysis provided in the SSSP, the draft Tract analysis prepared for the Study, and the analysis provided at Figure 1 in Moreland DDO18. All three examples show a three-storey (mixed-use) building built to the street, with three levels of apartments set 5-6m back from the street edge. However, none of these examples would enable the construction of a three-storey residential addition that complies with Clause 58.07-2 of the Apartment Development Standards which establishes a minimum floor to ceiling height of 2.7m (except where services are provided above the kitchen)<sup>6</sup>. In addition, a 10.4m minimum street wall height would be required to accommodate a commercial ground floor and two levels of apartment or mixed-use development above. Three-storeys of apartments above this would require approximately 9.6m of height plus roof plant and building services, giving a minimum total height of 20m rather than 19m provided in the diagram on page 19 of the SSSP or Figure 1 of Moreland DDO18.

<sup>5</sup> We note that the City of Yarra use an eye height of 1.6m in Clause 22.02, however this difference is unlikely to make a material difference to the sightline analysis or perception of the view.

<sup>6</sup> A 2.7m floor to ceiling height translates to an approx. 3.2m inter-floor height - allowing 400mm for structure and 100mm for services and finishes.

Although the street width, height of the viewer, setbacks and number of floors are the same between the Moreland DDO18 and draft Tract sight light analysis, the diagrams show different ratios of visible upper level development to street wall of 1/4:3/4 and 1/3:2/3 respectively. This is primarily due to a 11m street wall being assumed in DDO18 (which includes a parapet or balcony element) compared with the 10m street wall described in the diagram within the SSSP.

Moreland DDO18 also provides a useful model for dealing with existing heritage building that may have a street wall height of less than the mandatory 11m street wall height provided in that control. A similar control would be required for any Swan Street DDO to recognise that a larger proportion of new built form would be visible beyond a retained single-storey or low two-storey heritage street wall than the preferred ratio allows for.

Such a control for Swan Street could read:

- Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons, new development may occupy more than one third of the vertical angle defined by the whole building.

It is our view that the draft Tract modeling (refer Figure 30) describes a more realistic outcome that is more likely to comply with Clause 58.07 than Moreland DDO18, and that a 1/3:2/3 ratio will achieve an acceptable outcome in heritage terms.

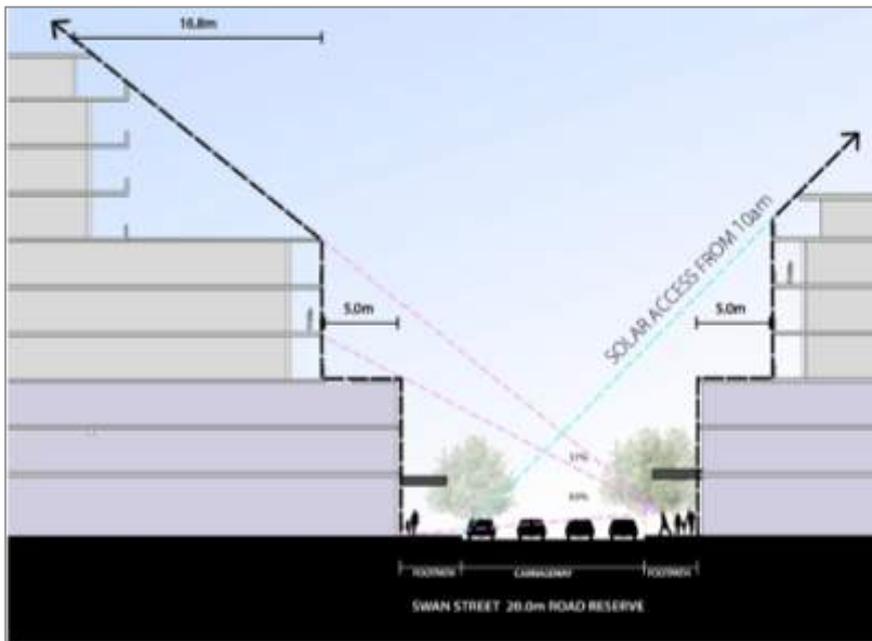


Figure 30: Upper level setbacks along Swan Street (©Tract)

## 9. Recent VCAT decisions

It is noted that in recent decisions, VCAT has given little weight to the SSSP, despite it containing useful guidance for considering heritage in new development proposals.

*Richmond Icon Pty Ltd v Yarra CC [2011] VCAT 2175* and *429 Swan Street Pty Ltd v Yarra CC [2016] VCAT 370* considered new development within parts of the Study Area. Both cases considered the issue of acceptable verses ideal planning outcomes and the balance that must be struck between the protection of heritage values and the competing objectives of accommodating higher built form and increased density and housing provision. In neither case weight was given to the SSSP due to it having no formal status in the Yarra Planning Scheme.

These decisions are summarised in Appendix 3.

## 10. Mandatory and Discretionary Height and Setback Controls

PPN59 notes that the VPPs are predominantly performance-based and that mandatory provisions are the exception. The PPN sets out a series of five criteria against which to test proposed mandatory provisions, being:

- 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?

While the Study Area is zoned C1Z and C2Z rather than Activity Centre Zone (ACZ), PPN60 still provides useful guidance on the application of height and setback controls within the Swan Street corridor and particularly the use of discretionary and mandatory controls. PPN60 establishes a threshold of ‘exceptional circumstances’ that may justify the use of mandatory height and setback controls, and notes that a number of Panels have confirmed that discretionary is the preferred form of control in an Activity Centre. The PPN identifies that:

*When appropriate maximum and minimum height and setback controls are identified, they should be included in the relevant planning scheme as discretionary controls with clear design objectives.*

*Mandatory height and setback controls (that is, controls that cannot be exceeded under any circumstance) will only be considered in exceptional circumstances.*

PPN60 identifies the following criteria for ‘exceptional circumstances’ that “...may be identified for individual locations or specific and confined precincts”. These are (as relevant):

- *significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values*
- *sites of recognised State significance where building heights can be shown to add to the significance of the place, for example views to the Shrine of Remembrance...*

Within the Study Area, the protection of the view cones to the Dimmeys Tower, which is included on the VHR for its landmark qualities and recognised in Clause 22.02 – ‘Landmarks and Tall Structures’, provides the greatest justification in heritage terms for mandatory street wall and setback heights along the south side of Swan Street between the former Richmond Post Office and Church Street. Likewise, the highly intact nature of HO335, its highly consistent street wall and the presence of a number of buildings included in the VHR (i.e. being of ‘recognised State significance’) suggests that the entirety of the precinct (and the parts of HO332 that abut it and are included in the Study Area) meets the tests within PPN60 for the use of mandatory controls in an Activity Centre.

The Panel that considered Moreland Amendment C134 – Brunswick Activity Centre, provides further guidance on the application of mandatory street wall height and setback controls along the balance of the Swan Street Precinct. This Panel concluded that mandatory controls were appropriate for street wall heights along Sydney Road. It is our view that Sydney Road shares similarities with Swan Street in terms of heritage fabric and streetscape characteristics and this Panel Report provides useful guidance for the application of mandatory controls in parts of Swan Street.

Given the highly intact heritage fabric along the length of the Swan Street Precinct (HO335) and the consistency of the street wall height, it is considered that (like Sydney Road) mandatory street wall heights are appropriate. It is further considered that mandatory upper level setbacks are appropriate within HO335 to retain the prominence of these intact heritage facades. The application of mandatory controls should also apply to:

- Those buildings that are physically located within the Swan Street Precinct but are excluded on the basis of their inclusion in the VHR; and
- Buildings that are subject to a site-specific Heritage Overlay within the Study Area that have met the threshold of individual significance.

Clause 22.02-3 – ‘Levels of Significance’ defines an ‘individually significant’ building as “...a heritage place in its own right”. These buildings are typically grander in scale and detailing and more architecturally accomplished than ‘contributory’ buildings. Therefore, ‘individually significant’ properties within heritage precincts outside of HO335 along Swan Street could be considered to meet the test of “significant heritage”.

In contrast, the small parts of the Burnley Street Precinct and Bendigo Street Precinct included within the Study Area are much less homogenous in form and do not present a consistent streetscape. Although these precincts are of local significance, it appears less likely that the tests within PPN59 and PPN60 for the application of mandatory controls can be met on heritage grounds for those buildings that are not designated as ‘individually significant’. Therefore, we consider the use of discretionary DDO controls with clear guidance will achieve appropriate development for ‘contributory’ buildings within these precincts.

The presence of single-storey and lower scale early-Victorian two-storey ‘contributory’ and ‘individually significant’ building heights means that each site must be considered on its merits in relation to the proposed 1/3:2/3 ratio and this control should be discretionary to enable flexible design approaches to be undertaken as required by PPN59.

Further analysis underpinning these findings is provided in Sections 11 and 12.

## 11. Recommended Preferred Built Form Outcomes in Heritage Overlays

A visual review of the Study Area was undertaken during the weeks commencing 17 and 24 October 2016 and on an ad hoc basis from February to June 2017. All buildings and structures within the Study Area were inspected from the public realm and were considered in the context of their heritage features and values as well as the development outcomes that might be achieved if the preliminary recommendations of the Study were to be implemented. In this respect, particular attention was paid to the presentation of heritage buildings to Swan Street (and intersecting streets for corner sites), views along Swan Street, and views towards the Dimmeys Tower. The interfaces between the Study Area and neighbouring residential areas subject to the Heritage Overlay were also considered.

Recommendations regarding the preferred heritage-related built form outcomes along the Swan Street corridor are summarised below for each heritage precinct and for places subject to a site-specific Heritage Overlay. More detailed analysis around the impact of landmark views, street wall heights, upper level setbacks (front and side), rear interfaces and overall heights then follows.

The consideration of the impact of various upper level setback scenarios – in particular those proposed to protect the visual prominence of the Dimmeys Tower – have been informed by the 3D visualisations prepared by Tract Consultants. The heights of existing buildings (and in particular the heights of taller two-storey Victorian-era buildings) are estimates taken from Google Earth Pro.

It is considered that parameters for setbacks and heights of new built form proposed along Swan Street should be established on a block-by-block basis. For both simplicity, and to ensure consistent built form outcomes, any changes in controls should align to streets or laneways rather than individual property boundaries within urban blocks.

In general terms, larger upper-level setbacks are almost always preferable for protecting the visual integrity of a heritage streetscape. The purpose of the Heritage Review is, however, to assist in finding an appropriate balance between recognising and maintaining the heritage values that exist in the Study Area and the need to accommodate reasonable levels of new development to meet the objectives of other aspects of the Yarra Planning Scheme, including housing provision.

Following is a summary of the existing character and preferred future built form outcomes for each of the precinct-based Heritage Overlays within the Study Area as well as places in site-specific Heritage Overlays.

In general terms, and having regard to the identified heritage values of the Study Area, the following preferred future built form outcomes are recommended for Swan Street:

### **New infill development**

New infill development within heritage precincts reinforces the heritage character of the area by:

- Retaining the predominant street wall height of the existing Victorian/Edwardian era shop/residences.
- Ensuring zero setbacks to street frontages.
- Reflecting the predominate historic façade rhythm, including fenestration patterns and proportions and the module of structural bays.
- Being clearly distinguishable from original heritage fabric while also adopting a respectful contextual design response.
- Ensuring façade treatments and the articulation of new development is simple and does not compete with the more elaborate detailing of nineteenth century buildings.
- Ensuring fenestration patterns of new development respects the vertical proportions of nineteenth and early twentieth century façades and avoids large expanses of glazing with a horizontal emphasis except to ground floor shopfronts.
- Maintaining the existing canopy/verandah height.

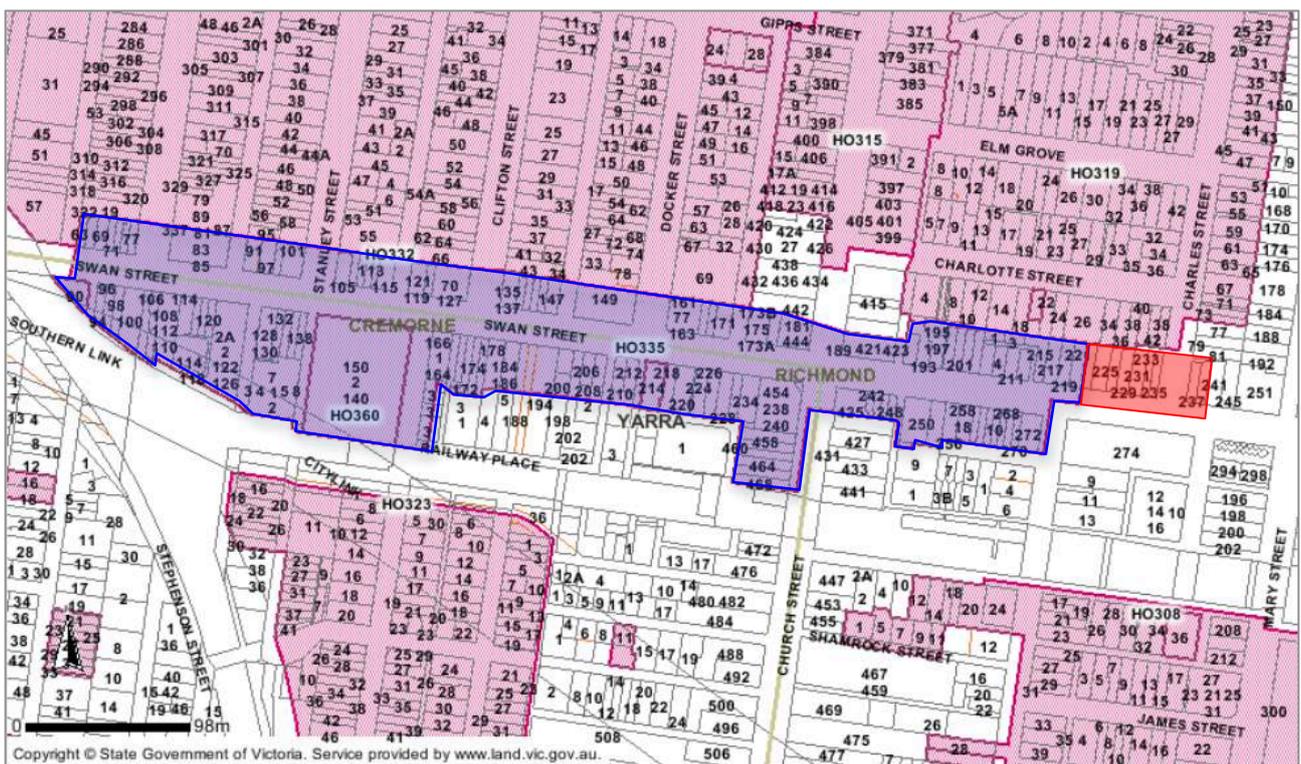
- Avoiding the replication of existing decorative features and architectural detail.

**New upper level development behind the street wall**

New upper level development behind the street wall of heritage places should:

- Ensure that unobstructed views to the landmark Dimmeys clock tower are retained.
- Ensure that the design and setback of the addition does not visually dominate the heritage building or surrounding heritage places.
- Retain the primacy of the three-dimensional form of the heritage building within the streetscape, not just a facade.
- Incorporate materials and finishes that are recessive in texture and colour.
- Utilise visually lightweight materials that provide a juxtaposition with the heavier masonry of the heritage facade.
- Incorporate simple architectural detailing so it does not detract from significant elements of the existing building.
- Avoid highly articulated facades with recessed and projecting elements.
- Avoid highly contrasting or vibrant primary colours.
- Avoid unarticulated façades that give a bulky appearance, especially from oblique views.
- Be articulated to reflect the fine grained character of narrow sites.

**11.1 Swan Street Precinct (HO335)**



**Figure 31:** HO335 – outlined in blue – including places on the VHR (Planning Maps Online, accessed 10 July 2017) \*Note: this includes the potential extension to HO335 (in red), which is subject to further investigation.

The Swan Street Precinct is a highly intact and architecturally accomplished turn of the century High Street. It includes places within in the VHR, such as Dimmeys, which reflect the high status of this retail strip. This is one of a limited number of highly intact turn of the century High Streets across metropolitan Melbourne, the significance of which warrants the application of mandatory street wall and setback controls to appropriately manage future development.

For the purposes of the following discussion, the Corner Hotel – an ‘individually significant’ building within the Richmond Hill Precinct (HO332) – should be subject to the same recommendations as those suggested for the Swan Street Precinct (HO335). The Corner Hotel is the only building in the Richmond Hill Precinct fronting Swan Street, and in both history and form it is considered to relate more meaningfully to the Swan Street Precinct than to Richmond Hill.

The preferred built form outcomes for HO335 (including additional properties that may be included, refer to Section 5.2) are:

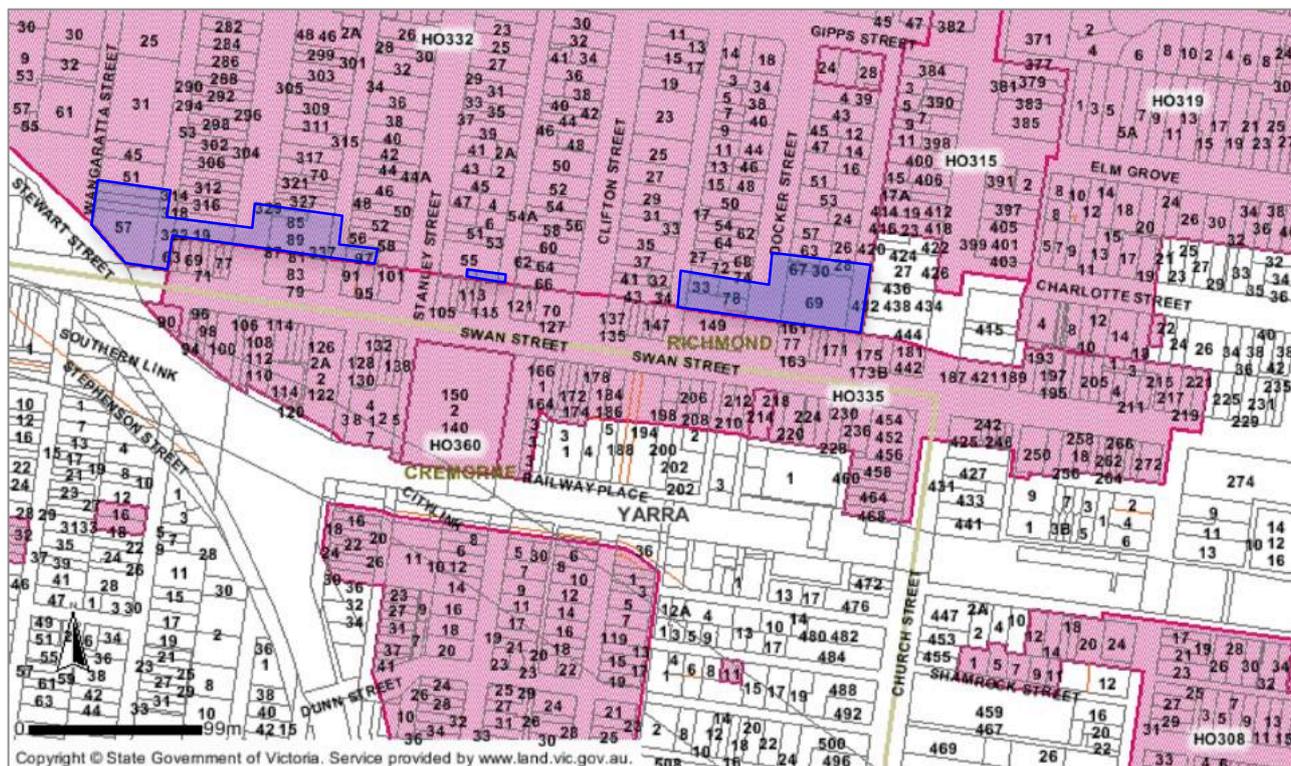
- Zero setbacks to street frontages to maintain the existing streetscape character.
- The predominant street wall height of two-storey Victorian/Edwardian era shop/residences should be retained. A mandatory maximum of 11m and mandatory minimum of 8m will ensure this occurs; however, controls should encourage that new infill development is to be constructed to the street wall height (being the flat top of the parapet or balustrade) of the higher immediately adjacent two-storey ‘contributory’ or ‘individually significant’ building to ensure smooth transitions between heritage and new built form.
- New upper level development (whether above an infill building or heritage façade) should protect landmark views to the Dimmeys clock tower. To achieve this, a mandatory minimum 10m setback behind the parapet to a height of six-storeys (approximately 20m height) is required on the southern side of Swan Street between the former Richmond Post Office and Royal Place. Between Royal Place and Church Street a minimum 5m setback is required above six-storeys (20m). Above six-storeys (20m in height), a 20m setback from Swan Street is required between the former Richmond Post Office and Royal Place.
- New upper level development (whether above an infill building or heritage façade) should ensure the heritage streetscape of Swan Street remains prominent. To achieve this, a mandatory minimum 5m setback behind the parapet (outside of the Dimmeys view cone) is required, including along Church Street south of Swan Street.
- Given the prominence of the Swan and Church Street intersection and the two individually significant buildings addressing it, a 5m upper level setback to both the Swan and Church Street elevations (and to corner splays) should be mandatory for all buildings that address this intersection.
- Cross street setbacks for corner buildings at minor intersections should be a discretionary 5m setback as flexible design approaches are required. Decision making criteria in relation to allowing setbacks of less than 5m on cross streets should include:
  - Is the elevation on the cross street a continuation of the Swan Street façade?
  - Does the setback ensure the heritage building can be read ‘in the round’ and not appear as a thin façade?
  - Does the setback accord with an existing bay depth or module of the historic façade?
  - Does the setback achieve the 1/3:2/3 relationship between new development and the existing façade height?
  - Does the setback match existing development behind adjacent ‘contributory’ and ‘individually’ significant buildings?
- A discretionary ratio of 1/3:2/3 of new built form visible above the street wall should be applied. Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons, new development may occupy more than one third of the vertical angle defined by the whole building but should match the setbacks of any adjacent development.
- A maximum building height of 8-10 storeys on the southern side of Swan Street and 5-6 storeys on the northern side of Swan Street is preferred, although these heights are likely to be moderated by

other built form considerations including setbacks and the 1/3:2/3 ratio of new development to heritage fabric.

- New upper level development should be recessive in terms of visibility and massing by subtly contrasting with the masonry structure below through its architectural treatment.
- Where new development has a rear interface with a residential property in the Heritage Overlay, the height of the new development should not exceed one-storey higher than the abutting 'contributory' or 'individually significant' dwelling at that interface (i.e. a maximum height of two-storeys should be constructed against a single-storey dwelling and a maximum height of three-storeys should be constructed against a two-storey dwelling).
- Original or early shop-fronts should be retained. The reinstatement of early shop-front designs is encouraged. Where the form of an early recessed entry has survived this should be retained.
- Where evidence of an early street verandah exists it should be reinstated.
- The conservation of heritage buildings through repair, restoration and reconstruction (where appropriate) is encouraged.
- The roof form of an 'individually significant' building between the parapet and any new development should be retained where it is visible from the public realm and/or contributes to the significance of the heritage place.
- New infill development should:
  - Interpret the historic façade rhythm, including fenestration patterns and proportions, the relationship between solid and void, and the module of structural bays.
  - Be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.
  - Ensure façade treatments and the articulation of new development is simple and does not compete with the more elaborate detailing of nineteenth century buildings.
  - Ensure fenestration patterns of new development respects the vertical proportions of nineteenth and early twentieth century façades and avoids large expanses of glazing with a horizontal emphasis except to ground floor shopfronts.
  - Maintain the existing canopy/verandah height.
  - Avoid the use of unarticulated curtain glazing or highly reflective glass.
  - Avoid the replication of existing decorative features and architectural detail.
  - Ensure ground floor facades facilitate activated street frontages.
- The adaptation of existing 'contributory' and 'individually significant' buildings should:
  - Discourage highly reflective glazing in historic openings.
  - Ensure the inter-floor height of the existing building is maintained and avoid new floor plates and walls cutting through historic openings.
  - Encourage the retention of solid built form behind retained facades and avoid balconies behind existing openings.
- New upper level development behind the street wall should:
  - Ensure that the design and setback of the addition does not visually dominate the heritage building or surrounding heritage places.
  - Retain the primacy of the three-dimensional form of the heritage building within the streetscape.
  - Incorporate materials and finishes that are recessive in texture and colour.
  - Utilise visually lightweight materials that provide a juxtaposition with the heavier masonry of the heritage facades.
  - Incorporate simple architectural detailing so it does not detract from significant elements of the existing building or streetscape.

- Provide a consistent and recessive backdrop to the heritage street wall and individual heritage buildings.
- Avoid highly articulated facades with recessed and projecting elements.
- Avoid highly contrasting or vibrant primary colours.
- Avoid unarticulated façades that give a bulky appearance, especially from oblique views.
- Be articulated to reflect the fine grained character of narrow sites.

## 11.2 Richmond Hill Precinct (HO332)



**Figure 32:** Southern parts of HO332 included within the Study Area – outlined in blue (Planning Maps Online, accessed 30 Nov 2016)

Small fragments of the southern part of the large Richmond Hill Precinct (HO332) are included within the Study Area by dint of their inclusion within the C1Z. This portion of HO332 is identified in the Statement of Significance as being predominantly Victorian residential in character; however the majority of sites included in the Study Area in this precinct are non-contributory later infill and have a less consistent heritage character than the Swan Street corridor at the western end. These sites present as transitional sites between Swan Street and the Victorian streetscapes rising up Richmond Hill.

The preferred built form outcomes for the portion of HO332 within the Study Area are:

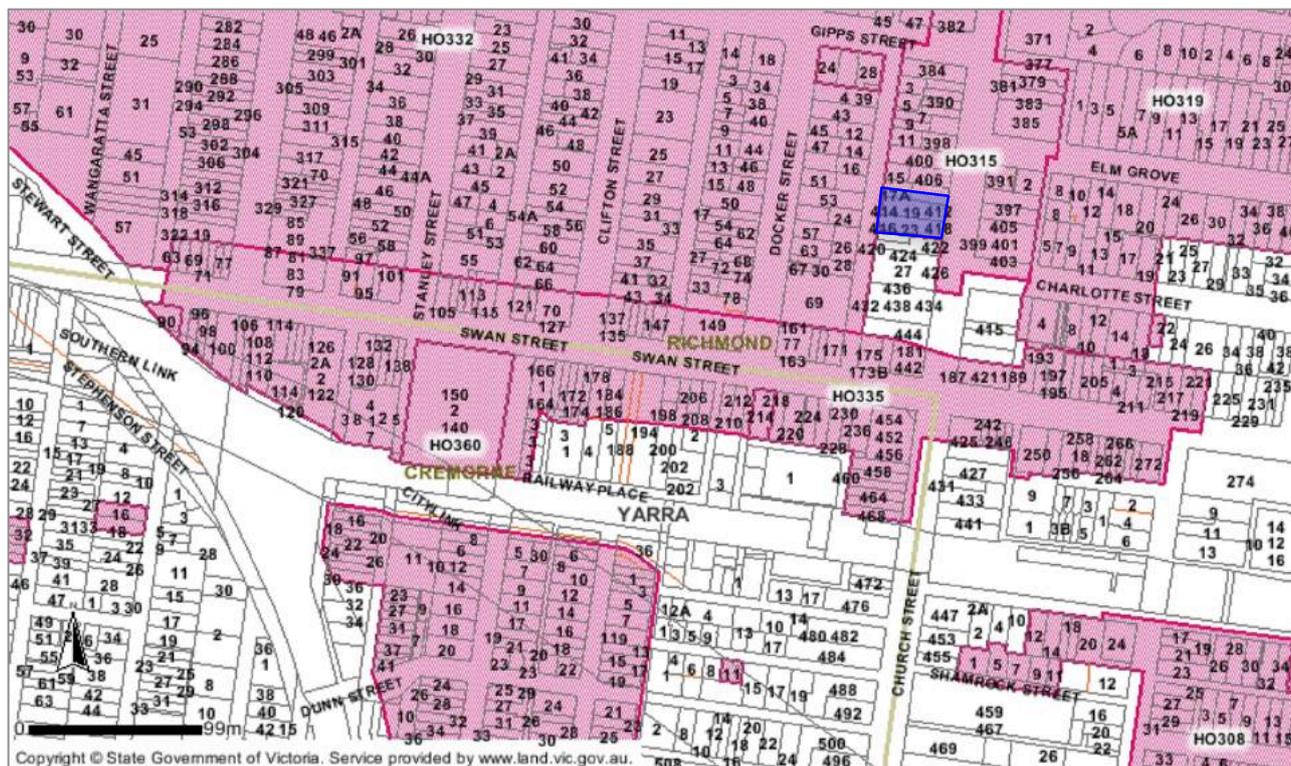
- Zero setbacks to street frontages to maintain the existing character.
- The predominant street wall height of two-storey Victorian/Edwardian era shop/residences should be retained. A mandatory maximum of 11m and mandatory minimum of 8m will ensure this occurs as it wraps around the corner from Swan Street and transitions to one and two-storey residences. Controls should encourage new infill development is to be constructed to the street wall height of the higher of the immediately adjacent two-storey ‘contributory’ or ‘individually significant’ building.
- New upper level development (whether above an infill building or heritage façade) should ensure the heritage form of buildings in the streetscapes remain prominent. A discretionary 5m setback for new upper-level development should be applied which should only be reduced if it can be

demonstrated that new development will retain the ability for the heritage buildings to remain prominent and be read as three dimensional forms and not simply façades.

- A discretionary ratio of 1/3:2/3 of new built form visible above the street wall should be applied. Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons, new development may occupy more than one third of the vertical angle defined by the whole building but should match the setbacks of any adjacent development.
- New upper level development should be recessive in terms of visibility and massing by subtly contrasting with the masonry structure below through its architectural treatment.
- Original or early shop-fronts should be retained. The reinstatement of early shop-front designs is encouraged. Where the form of an early recessed entry has survived this should be retained.
- Where evidence of an early street verandah exists it should be reinstated.
- The conservation of heritage buildings through repair, restoration and reconstruction (where appropriate) is encouraged.
- The roof form of an ‘individually significant’ building between the parapet and any new development should be retained where it is visible from the public realm and/or contributes to the significance of the heritage place.
- New infill development should:
  - Interpret the historic façade rhythm, including fenestration patterns and proportions, the relationship between solid and void, and the module of structural bays.
  - Be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.
  - Ensure façade treatments and the articulation of new development is simple and does not compete with the more elaborate detailing of nineteenth century buildings.
  - Ensure fenestration patterns of new development respects the vertical proportions of nineteenth and early twentieth century façades and avoids large expanses of glazing with a horizontal emphasis except to ground floor shopfronts.
  - Maintain the existing canopy/verandah height.
  - Avoid the use of unarticulated curtain glazing or highly reflective glass.
  - Avoid the replication of existing decorative features and architectural detail.
  - Ensure ground floor facades facilitate activated street frontages.
- The adaptation of existing ‘contributory’ and ‘individually significant’ buildings should:
  - Discourage highly reflective glazing in historic openings.
  - Ensure the inter-floor height of the existing building is maintained and avoid new floor plates and walls cutting through historic openings.
  - Encourage the retention of solid built form behind retained facades and avoid balconies behind existing openings.
- New upper level development behind the street wall should:
  - Ensure that the design and setback of the addition does not visually dominate the heritage building or surrounding heritage places.
  - Retain the primacy of the three-dimensional form of the heritage building within the streetscape.
  - Incorporate materials and finishes that are recessive in texture and colour.
  - Utilise visually lightweight materials that provide a juxtaposition with the heavier masonry of the heritage facades.
  - Incorporate simple architectural detailing so it does not detract from significant elements of the existing building or streetscape.

- Provide a consistent and recessive backdrop to the heritage street wall and individual heritage buildings.
- Avoid highly articulated facades with recessed and projecting elements.
- Avoid highly contrasting or vibrant primary colours.
- Avoid unarticulated façades that give a bulky appearance, especially from oblique views.
- Be articulated to reflect the fine grained character of narrow sites.

### 11.3 Church Street Precinct (HO315)



**Figure 33:** The southern part of HO315 included within the Study Area – outlined in blue (Planning Maps Online, accessed 30 Nov 2016)

The southern part of the Church Street Precinct (HO315) included within the Study Area comprises three properties facing Church Street – 410, 412-414, and 416-418 Church Street – and the properties behind at 17A, 19 and 23 Dickmann Street. Of these, 410 and 412-414 Church Street are identified as ‘contributory’ in Appendix 8 and 416-418 are ‘not contributory’. 410 Church Street is a two-storey mid-Victorian (c.1860-1880) house with what appears to be a later single-storey shop added in the front garden and 412-414 Church Street is a pair of Inter-war (c.1925-25) two-storey shops and residences. While included within the C1Z (and therefore the Study Area), their character is closer to that of the residential component of HO315 to the north of these properties than Swan Street itself.

Given the lack of streetscape consistency and heritage integrity, it is considered that this part of the Study Area would not meet the ‘exceptional circumstances’ test necessary to warrant mandatory street wall and setback controls on these properties. The future character of this small area should therefore seek to transition between new development between Swan Street to the south and the residential character of the bulk of HO315.

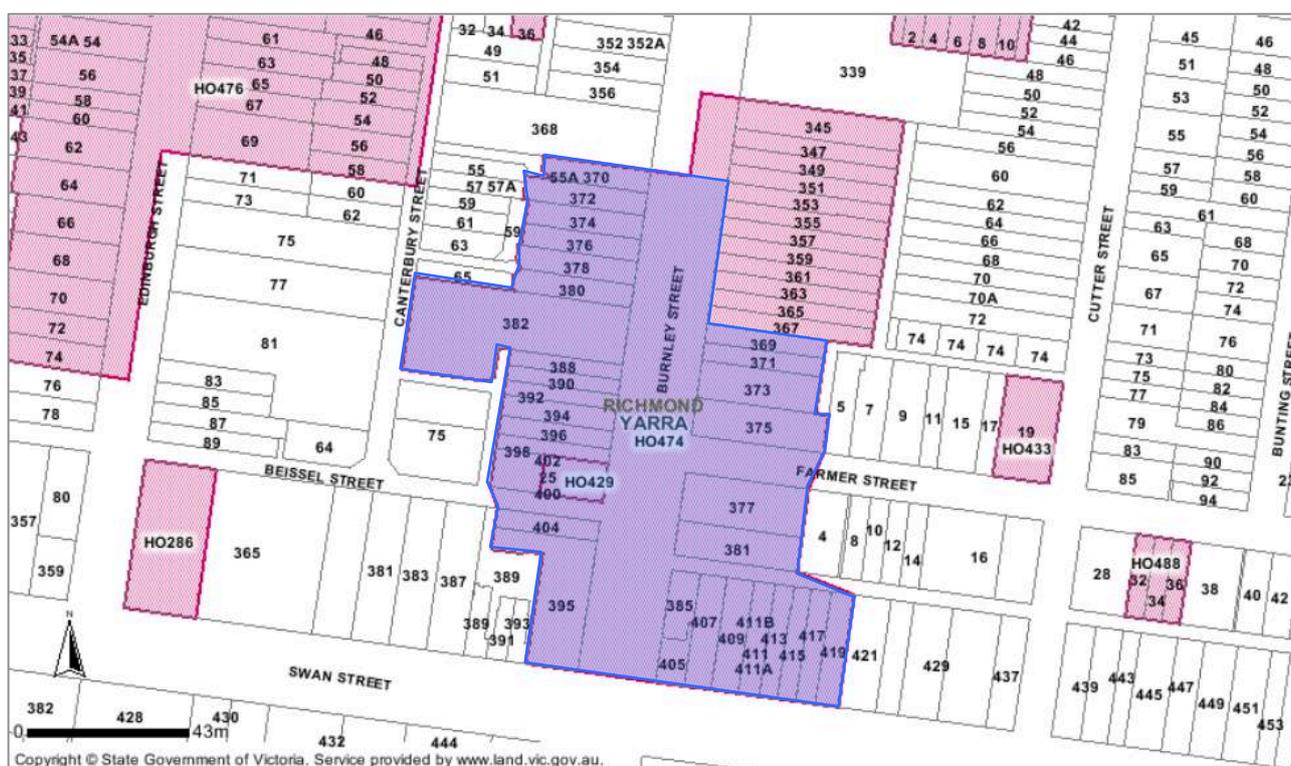
The preferred built form outcomes for the portion of HO315 within the Study Area are:

- Zero setbacks to street frontages to maintain the existing character.

- A discretionary 8m minimum and 11m maximum street wall height, with a preferred maximum street wall height for 416-418 Church Street being equal to the adjacent 'contributory' heritage building at 412-414 Church Street.
- The predominant street wall character on Church Street of solid walls punctuated by window openings above an activated ground floor level should be retained.
- A discretionary 5m setback for new upper-level development on the 'contributory' buildings at 410-414 Church Street, which should only be reduced on the 'contributory' buildings if it can be demonstrated that new development will retain the ability for the heritage buildings to be read as a three dimensional forms and not simply a façade, and the new development will not visually overwhelm heritage fabric.
- A discretionary ratio of 1/3:2/3 of new built form visible above the street wall should be applied to contributory buildings. Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons, new development may occupy more than one third of the vertical angle defined by the whole building but should match the setbacks of any adjacent development.
- New upper level development should be recessive in terms of visibility and massing by subtly contrasting with the masonry structure below through its architectural treatment.
- Original or early shop-fronts should be retained. The reinstatement of early shop-front designs is encouraged. Where the form of an early recessed entry has survived this should be retained.
- Where evidence of an early street verandah exists it should be reinstated.
- The conservation of heritage buildings through repair, restoration and reconstruction (where appropriate) is encouraged.
- New infill development should:
  - Interpret the historic façade rhythm, including fenestration patterns and proportions, the relationship between solid and void, and the module of structural bays.
  - Be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.
  - Ensure façade treatments and the articulation of new development is simple and does not compete with the more elaborate detailing of nineteenth century buildings.
  - Ensure fenestration patterns of new development respects the vertical proportions of nineteenth and early twentieth century façades and avoids large expanses of glazing with a horizontal emphasis except to ground floor shopfronts.
  - Maintain the existing canopy/verandah height.
  - Avoid the use of unarticulated curtain glazing or highly reflective glass.
  - Avoid the replication of existing decorative features and architectural detail.
  - Ensure ground floor facades facilitate activated street frontages.
- The adaptation of existing 'contributory' buildings should:
  - Discourage highly reflective glazing in historic openings.
  - Ensure the inter-floor height of the existing building is maintained and avoid new floor plates and walls cutting through historic openings.
  - Encourage the retention of solid built form behind retained facades and avoid balconies behind existing openings.
- New upper level development behind the street wall should:
  - Ensure that the design and setback of the addition does not visually dominate the heritage building or surrounding heritage places.
  - Retain the primacy of the three-dimensional form of the heritage building within the streetscape.

- Incorporate materials and finishes that are recessive in texture and colour.
- Utilise visually lightweight materials that provide a juxtaposition with the heavier masonry of the heritage facades.
- Incorporate simple architectural detailing so it does not detract from significant elements of the existing building or streetscape.
- Provide a consistent and recessive backdrop to the heritage street wall and individual heritage buildings.
- Avoid highly articulated facades with recessed and projecting elements.
- Avoid highly contrasting or vibrant primary colours.
- Avoid unarticulated façades that give a bulky appearance, especially from oblique views.
- Be articulated to reflect the fine grained character of narrow sites.

### 11.4 Burnley Street Precinct (HO474)



**Figure 34:** Parts of HO474 included within the Study Area – outlined in blue (Planning Maps Online – accessed 23 June 2017)

The Burnley Street Precinct is a locally significant precinct of late nineteenth and early twentieth century commercial and residential buildings. It comprises a mix of one and two-storey commercial buildings and a row of 12 single-storey late-Victorian terraced houses at its northern end (outside of the Study Area). The buildings included within HO474 that fall within the Study Area comprise the commercial buildings within C1Z.

The majority of the Burnley Street Precinct (HO474) addresses the Burnley Street commercial strip rather than Swan Street. The precinct is less homogenous and architecturally elaborate than the Swan Street Precinct and is a more typical mixed commercial and residential strip. It does not appear to meet the ‘exceptional circumstances’ test necessary to warrant mandatory built form controls.

The preferred built form outcomes for the portion of HO474 within the Study Area are:

- Zero setbacks to street frontages to maintain the existing character.
- A discretionary 11m maximum street wall height with new infill buildings encouraged not to exceed

the height of the taller of the neighbouring two-storey 'contributory or 'individually significant' building's parapet, even if this is less than 11m in height.

- The predominant street wall character of solid walls punctuated by window openings above an activated ground floor level should be retained.
- A discretionary 5m setback for new upper-level development (excluding for 'individually significant' places, see below). The setback behind the street wall should only be reduced if it can be demonstrated that new development will retain the ability for identified heritage buildings to be read as a three dimensional form and not simply a façade, and the new development will not visually overwhelm the heritage fabric or the heritage streetscape.
- A mandatory 5m upper level setback for the 'individually significant' buildings within the precinct on Swan Street in recognition of their higher level of significance.
- A discretionary ratio of 1/3:2/3 of new built form visible above the street wall should be applied. Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons, new development may occupy more than one third of the vertical angle defined by the whole building but should match the setbacks of any adjacent development.
- New upper level development should be recessive in terms of visibility and massing by subtly contrasting with the masonry structure below through its architectural treatment.
- Where new development has a rear interface with a residential property in the Heritage Overlay, the height of the new development should not exceed one-storey higher than the abutting 'contributory' or 'individually significant' dwelling at that interface (i.e. a maximum height of two-storeys should be constructed against a single-storey dwelling and a maximum height of three-storeys should be constructed against a two- storey dwelling).
- Original or early shop-fronts should be retained. The reinstatement of early shop-front designs is encouraged. Where the form of an early recessed entry has survived this should be retained.
- Where evidence of an early street verandah exists it should be reinstated.
- The conservation of heritage buildings through repair, restoration and reconstruction (where appropriate) is encouraged.
- The roof form of an 'individually significant' building between the parapet and any new development should be retained where it is visible from the public realm and/or contributes to the significance of the heritage place.
- New infill development should:
  - Interpret the historic façade rhythm, including fenestration patterns and proportions, the relationship between solid and void, and the module of structural bays.
  - Be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.
  - Ensure façade treatments and the articulation of new development is simple and does not compete with the more elaborate detailing of nineteenth century buildings.
  - Ensure fenestration patterns of new development respect the vertical proportions of nineteenth and early twentieth century façades and avoids large expanses of glazing with a horizontal emphasis except to ground floor shopfronts.
  - Maintain the existing canopy/verandah height.
  - Avoid the use of unarticulated curtain glazing or highly reflective glass.
  - Avoid the replication of existing decorative features and architectural detail.
  - Ensure ground floor facades facilitate activated street frontages.
- The adaptation of existing 'contributory' and 'individually significant' buildings should:
  - Discourage highly reflective glazing in historic openings.

- Ensure the inter-floor height of the existing building is maintained and avoid new floor plates and walls cutting through historic openings.
- Encourage the retention of solid built form behind retained facades and avoid balconies behind existing openings.
- New upper level development behind the street wall should:
  - Ensure that the design and setback of the addition does not visually dominate the heritage building or surrounding heritage places.
  - Retain the primacy of the three-dimensional form of the heritage building within the streetscape.
  - Incorporate materials and finishes that are recessive in texture and colour.
  - Utilise visually lightweight materials that provide a juxtaposition with the heavier masonry of the heritage facades.
  - Incorporate simple architectural detailing so it does not detract from significant elements of the existing building or streetscape.
  - Provide a consistent and recessive backdrop to the heritage street wall and individual heritage buildings.
  - Avoid highly articulated facades with recessed and projecting elements.
  - Avoid highly contrasting or vibrant primary colours.
  - Avoid unarticulated façades that give a bulky appearance, especially from oblique views.
  - Be articulated to reflect the fine grained character of narrow sites.

### 11.5 Bendigo Street Precinct (HO309)



**Figure 35:** Part of HO309 included within the Study area – outlined in blue (Planning Maps Online, accessed 1 Dec 2016)

The Study Area, again reflecting the extent of commercially zoned land on Swan Street, includes three properties that are subject to the Bendigo Street Precinct (HO309). Other than these three properties, the rest of HO309 is zoned NRZ recognising the low-rise residential character of the area. The three buildings at 493, 495 and 497 Swan Street form part of a row of four single-storey Edwardian-era terraced houses

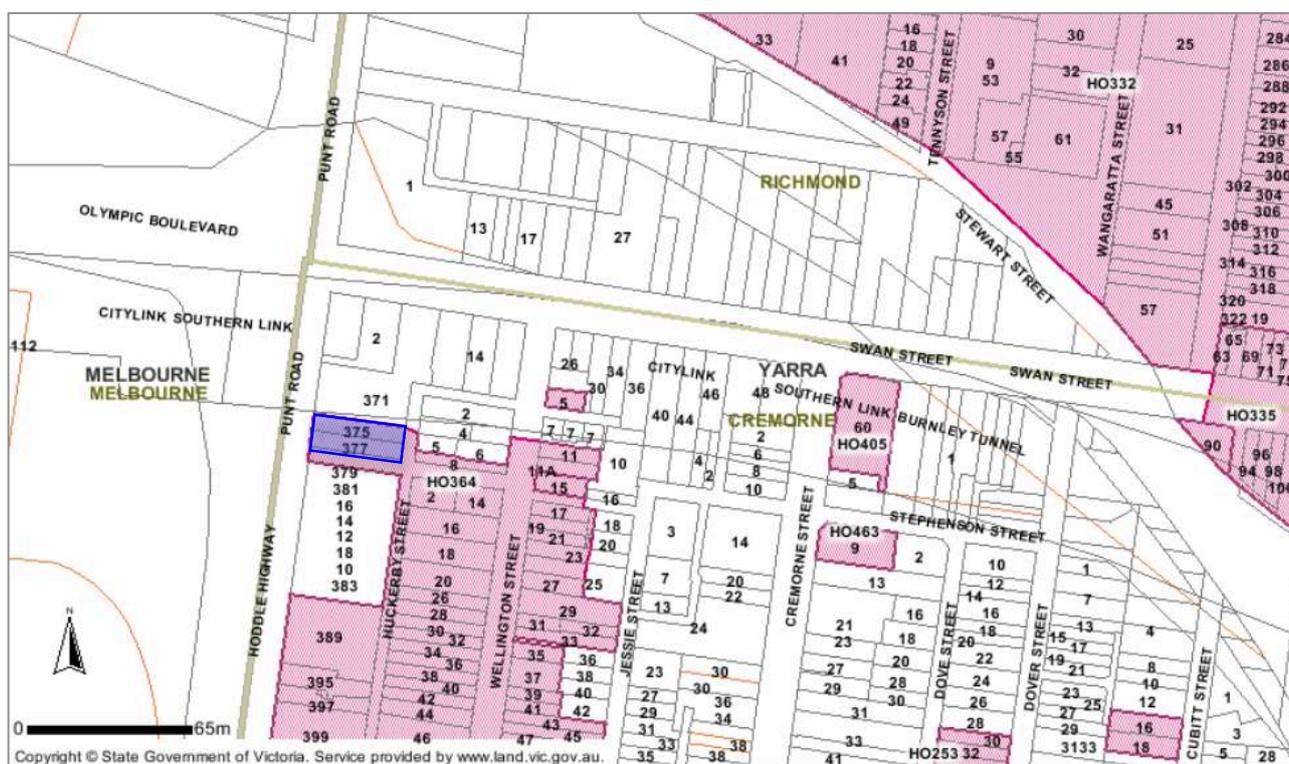
identified as ‘contributory’ in Appendix 8. 493 and 495 Swan Street appear reasonably intact, while 497 Swan Street has been converted to commercial use with a shop constructed in front of the house.

The preferred built form outcomes for the portion of HO474 within the Study Area are:

- That the properties should remain low-rise residential in character.
- New development take the form of high quality, contemporary, recessive additions to the predominantly single-storey houses in accordance with Council’s heritage policy at Clause 22.02 of the Yarra Planning Scheme.

We recommend that the status of these properties be reconsidered with either all properties included in, or excluded from, the Study Area. In heritage terms, rezoning this land NRZ and removing these properties from the Study Area would be the preferred outcome.

### 11.6 Wellington Street Precinct (HO364)



**Figure 36:** Part of HO364 included within the Study Area – outlined in blue (Planning Maps Online, accessed 1 Dec 2016)

Only two properties within the Wellington Street Precinct (HO364) are included within the Study Area at 375 and 377 Punt Road. The buildings have been demolished and these sites are now vacant. As these sites are somewhat isolated from the balance of HO364 by virtue of their orientation to Punt Road and no heritage controls to the north or south, their redevelopment will not impact on the heritage values of the precinct or on the broader Study Area.

### 11.7 Site-specific Heritage Overlays

The Study Area includes a number of significant buildings within individual, site-specific Heritage Overlays. These buildings include hotels, houses, the former Burnley Theatre and the Swan Street Drill Hall. These places vary in scale and architectural detailing, although the majority are two or three-storey masonry buildings built to the street with a parapeted form. Development of and around these places – including any other places included in the Heritage Overlay following further assessment (refer to Section 5.1) – should be designed to retain their prominence in the streetscape. Where the opportunity exists for upper

level additions to these individually significant buildings, it is considered that mandatory setbacks from the street frontage are appropriate to manage heritage impacts given the individual and specific nature of the heritage controls.

The preferred built form outcomes for site-specific, individual Heritage Overlays within the Study Area are:

- Where an opportunity exists for infill development on a street frontage within the curtilage of an individually significant place, the street wall height must match the parapet height of the façade of the significant building.
- New upper level development should ensure the heritage fabric of individually significant places remains highly legible and prominent in the streetscape. To achieve this, a mandatory minimum 5m setback behind the street wall is required.
- The former Burnley Theatre at 365 Swan Street (HO286) is atypical in form when compared to the other site-specific Heritage Overlays in the Study Area. The front foyer element is built to the street and the taller theatre auditorium is set further back. In this instance a mandatory 10m setback is justified to allow the foyer element (approximately 7m in depth) to be retained and 3m of the form of the auditorium roof.
- A mandatory 5m setback should be applied to both the Swan and Cremorne Street elevations of The Precinct Hotel at 60-62 Swan Street as it is located at a prominent street corner and has façades that address both Swan and Cremorne Streets equally.
- A discretionary ratio of 1/3:2/3 of new built form visible above the street wall should be applied. Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons, new development may occupy more than one third of the vertical angle defined by the whole building but should match the setbacks of any adjacent development.
- The preferred maximum building height for 291 Swan Street (HO285 – former Central Club Hotel), 309 Swan Street (HO440 - former Swan Street Drill Hall), and 365 Swan Street (HO286 - former Burnley Theatre) is 6-7 storeys. 319 Swan Street (HO441) is a smaller site and has a preferred maximum building height of four-storeys.
- Upper-level additions should be scaled to ensure that they are visually recessive and do not dominate the heritage place.
- Original or early shop-fronts should be retained. The reinstatement of early shop-front designs is encouraged. Where the form of an early recessed entry has survived this should be retained.
- Where evidence of an early street verandah exists it should be reinstated.
- The conservation of heritage buildings through repair, restoration and reconstruction (where appropriate) is encouraged.
- The roof form of an ‘individually significant’ building between the parapet and any new development should be retained where it is visible from the public realm and/or contributes to the significance of the heritage place.
- The adaptation of existing ‘contributory’ and ‘individually significant’ buildings should:
  - Discourage highly reflective glazing in historic openings.
  - Ensure the inter-floor height of the existing building is maintained and avoid new floor plates and walls cutting through historic openings.
  - Encourage the retention of solid built form behind retained facades and avoid balconies behind existing openings.
- New upper level development behind the street wall should:
  - Ensure that the design and setback of the addition does not visually dominate the heritage building or surrounding heritage places.

- Retain the primacy of the three-dimensional form of the heritage building within the streetscape.
- Incorporate materials and finishes that are recessive in texture and colour.
- Utilise visually lightweight materials that provide a juxtaposition with the heavier masonry of the heritage facade.
- Incorporate simple architectural detailing so it does not detract from significant elements of the existing building.
- Avoid highly articulated facades with recessed and projecting elements.
- Avoid highly contrasting or vibrant primary colours.
- Avoid unarticulated façades that give a bulky appearance, especially from oblique views.
- Be articulated to reflect the fine grained character of narrow sites.

### **11.8 Properties adjacent to heritage buildings**

It is recommended that built form controls be specified for sites immediately adjacent to (but outside) both precinct-based and site-specific Heritage Overlays (including those subject to Heritage Overlay controls in the future, refer to Section 5) in order to encourage new development to be respectful of its heritage context and to provide a transition to higher built form. Discretionary, rather than mandatory, controls are recommended in these locations as flexibility in design response is desirable in these transitional locations and the 'exceptional circumstances' test identified in PPN60 is not clearly met.

The preferred built form outcomes for properties adjacent to heritage buildings within the Study Area are:

- A discretionary street wall height of 11m or the height of the immediately adjacent 'contributory' or 'individually significant' heritage building.
- A discretionary upper level setback of 5m to encourage new development to be respectful of its heritage context and to allow the important façade features of heritage buildings to remain prominent in the streetscape.

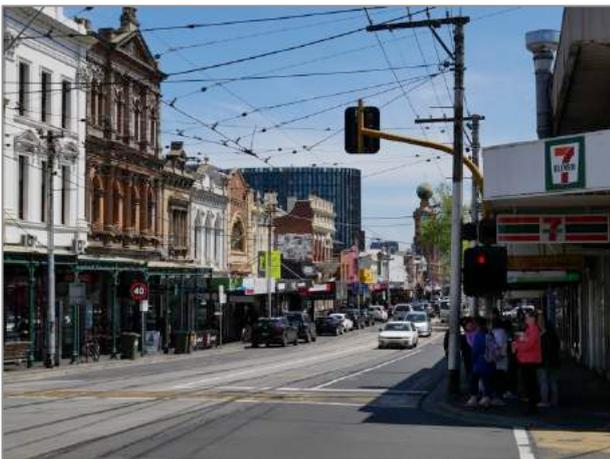
## 12. Heritage Considerations for Built Form Controls

### 12.1 Protection of view cones to Dimmeys Tower

The primary views of the Dimmeys Tower from the east start at the apex of the hill, around the intersection of Swan and Charles Streets. From the west the primary views commence to the east of the railway viaduct. Although more distant views of the Tower are afforded from west of Richmond Railway Station, these are less proximate and the view is interrupted by the railway viaduct. All the key views of the Dimmeys Tower are from the northern side of Swan Street. Although the Tower can be clearly seen when driving along Swan Street, our assessment has been based on views from natural eye height (approximately 1.6m) on the northern footpath, where most people can reasonably appreciate the view.

The angle of the view, coupled with the existing height of the three-storey Swan Hotel on the southeast corner of Swan and Church Streets and the three-storey buildings at 234-236 Swan Street, means that built form controls are not required east of Church Street to protect the prominence of the Dimmeys Tower.

Likewise, the former Richmond Post Office (90-92 Swan Street, VHR H0048), immediately east of the railway viaduct, is on a constrained triangular site on the south side of Swan Street. Given its location, it falls outside of the primary view cone to the Tower and specific built form controls to protect Tower views do not need to commence until east of this site.



**Figure 37:** Dimmeys Tower from the northeast corner of Swan and Church Streets



**Figure 38:** Dimmeys Tower from corner of Swan and Clifton Streets



**Figure 39:** Dimmeys Tower from the corner of Lennox Street



**Figure 40:** Former Richmond Post Office

Currently when moving along the length of the view cone, the portion of the Dimmeys Tower that remains highly visible is that section above the central rendered band and including the rectangular openings, clock face and ball. To ensure this part of the Tower retains its landmark status within the streetscape, the upper levels of any new development above the parapet line on the south side of Swan Street between the laneway to the east of the former Richmond Post Office and Church Street should be set back. Upper-level setbacks will ensure that there is clear sky between the upper portion of the Tower and any new development, meaning the Tower can continue to be appreciated “in the round” and as the principal built form at the upper level of the streetscape. We note that this position is consistent with that of the Tribunal in *Richmond Icon Pty Ltd v Yarra CC* [2011], who found at paragraph 65 that it was important:

*...that the ball tower remain “the principal built reference”. We are of the view this means any nearby structure should be visually subservient to the ball tower having regard to the ball tower’s architectural complexity, richness of detailing and its position on the street frontage.*

Based on the modelling prepared by Tract Consultants, it is considered that a minimum 10m setback behind the parapet to a height of six-storeys (approximately 20m height) is appropriate between the former Richmond Post Office and Royal Place to achieve this visual separation. While a larger setback would increase the visual separation between the Dimmeys Tower and the new built form, and would therefore improve the presentation of the Tower when viewed along Swan Street, modelling suggests that 10m is the minimum distance required to achieve adequate visual separation. Between Royal Place and Church Street the setback can be reduced to 5m to a height of six-storeys (20m) and the visual separation from the upper portion of the Tower will still be achieved.

To protect the visual prominence of the Dimmeys Tower there is also a need to set new development above six-storeys further back again. Through their modelling, Tract Consultants identified that a 20m setback from the Swan Street street wall for built form above six-storeys was necessary between the former Richmond Post Office and Royal Place to provide clear sky around the upper portion of the Tower. From our review of Tract Consultant’s 3D models, it is our view that this distance achieves adequate visual separation between the upper portion of the Tower and new development. Again, a larger setback would improve the visual separation of new built form from the Tower and increase the clear sky backdrop to the Tower in key views up and down Swan Street; however modelling suggests that 20m is the minimum distance required to achieve adequate visual separation.

In the portion of Swan Street between the former Richmond Post Office in the west and Church Street to the east, development with a street wall height that approximates that of the parapet height of the Dimmeys building (approximately 11m<sup>7</sup>) can be accommodated without any adverse impact on the visual prominence of the Tower.

PPN59 provides guidance in relation to the use of mandatory controls to protect the views such as those of the Dimmeys Tower. The inclusion of the Dimmeys building on the VHR (with explicit recognition of the landmark qualities of its prominent tower) and its inclusion as one of the few landmark buildings identified in Clause 22.03 ‘Landmarks and Tall Structures’ provides the ‘sound strategic basis’ required by PPN59 for the application of mandatory controls along the south side of Swan Street between the former Richmond Post Office in the west and Church Street in the east.

Likewise, PPN60 provides guidance on the use of mandatory versus discretionary controls in the context of height and setback controls in Activity Centres. The PPN encourages the use of discretionary controls to allow flexibility in new developments to accommodate contextual variation and innovative design. PPN60 sets out criteria for ‘exceptional circumstances’ that may justify the use of mandatory height and setback controls. In the case of the Dimmeys Tower the following criterion is satisfied:

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<sup>7</sup> Dimensions taken from the town planning drawings for the Dimmeys redevelopment prepared by Armsby Architects, November 2010 indicate parapet height is between 10.24m and 10.74m from pavement level.

- sites of recognised State significance where building heights can be shown to add to the significance of the place, for example views to the Shrine of Remembrance...

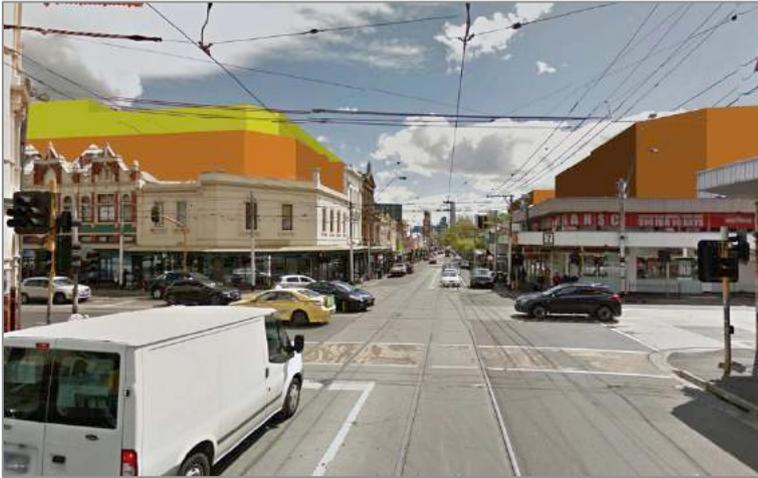
Therefore it is our view that mandatory controls within the proposed DDO are appropriate on the south side of Swan Street between the former Richmond Post Office and Church Street to protect the important views of the Dimmeys Tower.



**Figure 41:** 3D model looking east along Swan Street towards Dimmeys from the intersection with Botherambo Street showing 10m setback to six-storeys (20m) and 20m setback above six-storeys (© Tract Consultants)



**Figure 42:** 3D model looking east along Swan Street towards Dimmeys from the intersection with Lennox Street showing 10m setback to six-storeys (20m) and 20m setback above six-storeys (© Tract Consultants)



**Figure 43:** 3D model looking west along Swan Street towards Dimmeys from the intersection with Church Street showing 5m setback to six-storeys (20m) and further setback above six-storeys in accordance with the 1/3:2/3 guidance (© Tract Consultants)



**Figure 44:** 3D model looking west along Swan Street towards Dimmeys from the intersection with Dickmann Street showing 5m setback to six-storeys (20m) and further setback above six-storeys in accordance with the 1/3:2/3 guidance and a 10m setback to six-storeys (20m) and 20m setback above six-storeys beyond Royal Place (© Tract Consultants)



**Figure 45:** 3D model looking west along Swan Street towards Dimmeys from the intersection with Waverley Street showing a 10m setback to six-storeys (20m) and 20m setback above six-storeys beyond Royal Place (© Tract Consultants)

## 12.2 Street wall heights

The existing street wall height within the parts of the Study Area subject to the Heritage Overlay is generally two-storey (Victorian-era) in scale with a smaller number of single and three-storey 'contributory' and 'individually significant' buildings. Two-storey mid-Victorian (c.1860-1875) buildings are generally lower than the grander 'Boom-style' later Victorian (c.1875-1901) or Edwardian Freestyle (c.1901-1915) buildings. Inter-war (c.1918-1939) two-storey buildings generally adopt a lower street wall, reflecting the move away from large inter-floor heights and flamboyant parapets or balustrades. Post-war and late twentieth century buildings are generally lower in scale and are of more utilitarian design. Almost all of the building façades within the Heritage Overlay terminate with a parapet or balustrading.

While the SSSP identified a street wall height of 10 metres in '3.2 - Urban Design Principles', this is lower than a number of existing two-storey buildings (including the Dimmeys building) and would force new development to be lower than the parapet height of neighbouring buildings. It will potentially reduce the consistency of the street wall height which the SSSP seeks to maintain. A 10m street wall height will generally not allow for three-storey infill development (assuming inter-floor heights of 4m for commercial development and 3.2m per floor for residential development including roof structure and parapet). An 11m street wall height is considered appropriate to accommodate three-storeys while not overwhelming the scale of existing two-storey buildings within the Study Area that are subject to the Heritage Overlay. Although a three (contemporary) storey infill building within the street wall will not continue the inter floor heights of adjacent two (Victorian-era) buildings, this is not considered to have an adverse heritage impact if the fenestration patterns and façade design are appropriate and maintain similar relationships of solid to void and proportions of openings etc. A street wall height of less than a two-storey building (i.e. less than 8m) will not improve heritage outcomes due to lower built form detracting from the consistent rhythm of the streetscape. In addition, the height of infill buildings should not exceed the height of the taller of the neighbouring 'contributory or 'individually significant' building's parapet, if they are less than 11m in height.

Like Sydney Road, Brunswick, the two-storey Victorian-era buildings within Swan Street range in height between 8m and 11m, and the mandatory control established within Moreland DDO18 would provide a reasonable basis for establishing a mandatory range (minimum 8m; maximum 11m) for new street walls along the highly intact parts of Swan Street covered by the Heritage Overlay.

The street wall height of existing buildings should be measured to the top of the balustrade rail or the flat surface of the parapet, not including features such as brackets, pediments, urns, finials or other decorative elements. This is to ensure that new development is aligned to the predominant height of the neighbouring heritage building rather than its tallest architectural feature.

### 12.2.1 Swan Street Precinct (H0335)

The SSSP and the Study's preliminary recommendations both identify that the preferred street wall height for infill development within the Swan Street Precinct should be taken from the height of the taller commercial (Victorian-era) two-storey buildings with parapets, which will accommodate three modern storeys. Tract Consultants have identified a proposed 11m maximum street wall height for new infill development in this area. Our assessment, based on an estimate of heights taken from Google Earth Pro, is that there are only two two-storey heritage buildings in the Swan Street Precinct that possibly exceed 11m in height to the top of the parapet. Therefore an 11m maximum height would appear reasonable within the extent of the Swan Street Precinct. A street wall height of less than a two-storey building (8m) will not improve heritage outcomes due to lower built form detracting from the consistent rhythm of the streetscape. In addition, the height of infill buildings should be encouraged not exceed the height of the taller of the neighbouring 'contributory or 'individually significant' building's parapet, if they are less than 11m in height.

Given the highly intact heritage fabric along the length of both the north and south sides of the Swan Street Precinct and the consistency of the street wall height, it is considered that a mandatory maximum street

wall height of 11m is appropriate, and to discourage the construction of single-storey buildings, a mandatory minimum of 8m.

However, if a mandatory control is implemented, two qualifiers should be provided:

1. To allow new development to be constructed to the street wall height of the adjacent two-storey 'contributory' or 'individually significant' building if the flat top of the parapet or balustrade of that building exceeds 11m in height. This is necessary to avoid infill development that does not align with the top of the parapet when this will provide a more consistent street wall outcome. The stepping down of the height of a new development to meet a mandatory height limit can create uneven 'gaps' in the street wall if there are extant buildings that exceed the mandatory height.
2. To allow for the accurate reconstruction of heritage buildings or heritage façade features that exceed the mandatory height if those buildings have been damaged or destroyed.

The Panel that considered Moreland Amendment C134 – Brunswick Activity Centre provides guidance on the application of mandatory street wall height and setback controls along the Swan Street Precinct. This Panel concluded that mandatory controls were appropriate for street wall heights along the sections of Sydney Road affected by HO149 – Sydney Road Precinct. We note that Sydney Road shares similar heritage characteristics with Swan Street including the mix of historic and current uses, historic built form (generally two and three-storey Victorian-era commercial buildings), a high proportion of 'contributory' and 'individually significant' buildings with a high level of intactness, and similar existing street wall heights (generally between 8m and 11m). Therefore, it is our view that mandatory controls within the proposed DDO are appropriate within the Swan Street Precinct.

### **12.2.2 Richmond Hill Precinct (HO332)**

The areas of HO332 within the Study Area directly abut the Swan Street Precinct and should adopt the same street wall height controls to those that apply within HO335.

The Corner Hotel (57 Swan Street) and the car parking area immediately to its north are included within HO332, whereas the hotel's address on Swan Street suggests that it should be located within HO335. Given its location at the 'gateway' to the Swan Street Precinct and that the Corner Hotel is identified as 'individually significant' in Appendix 8 it would be appropriate to apply the same mandatory street wall height controls to this site that are proposed for the properties on Swan Street.

322-324 Lennox Street and 19 Botherambo Street behind it are included within the Study Area and HO332. The mid-Victorian house at 19 Botherambo Street is identified as 'individually significant' in Appendix 8 and the Edwardian-era (1900-1915) two-storey shops and residences at 322-324 Lennox Street are identified as 'contributory'. Given these properties abut a series of narrow nineteenth century shops and residences at 63-77 Swan Street and their heritage status, it would be appropriate to apply the same street wall height controls to this site that are proposed for the properties on Swan Street.

The boundary between HO335 and HO332 currently passes through the centre of the two-storey c.1970s post office at 333-337 Lennox Street. The extent of the Study Area includes the 'not contributory' post office and a narrow two-storey Victorian shop and residence at 331 Lennox Street, which is identified as 'contributory' in Appendix 8. As the post office addresses Swan Street, this section of HO332 (including 331 Lennox Street) should be subject to the same mandatory street wall height controls to the rest of the post office property site addressed at 79-89 Swan Street.

A small sliver of land occupied by a brick garage facing Dando Street is located behind two-storey shops and residences at 111, 113 and 115 Swan Street and is included within HO332. The cadastral blocks suggest that this land served as right of way access to these shops and therefore the same mandatory DDO controls should apply to this parcel of land as applies to the parcels fronting Swan Street.

The boundary between HO335 and HO332 passes through the parcel of land occupied by the Vaucluse Hotel at 149-159 Swan Street. The c.1990s bottle shop component of the hotel at 149-155 Swan Street is

identified as ‘not contributory’ and the c.1850-1890 hotel at 157-159 Swan Street is identified as ‘contributory’ in Appendix 8. In addition, the Study Area includes 33-35 Waverley Street – a post-war warehouse building identified as ‘not contributory’ in Appendix 8 – and 78 Docker Street – a ‘not contributory’ c.1980s office building. The full depth of the Vaucluse Hotel site, 33-35 Waverley Street and 78 Docker Street should be subject to mandatory street wall height controls to protect the heritage scale of Swan Street.

The car park and toilet between Docker and Dickmann Streets is included within HO332 and the Study Area, as are the houses at 65 and 67 Docker Street and 30 Dickmann Street. The car park and toilet block is identified as ‘not contributory’ in Appendix 8. Although 65 and 67 Docker Street are identical (and very heavily altered) mid-Victorian houses, 65 Docker Street is identified as ‘not contributory’ while 67 Docker Street is identified as ‘contributory’. 30 Dickmann Street is a two-storey office building dating from the c.1980s and is identified as ‘not contributory’. This area of HO332 directly abuts the two-storey shops and offices at 161-173 Swan Street and therefore same mandatory street wall height controls should apply to these parcels of land as applies to the parcels fronting Swan Street.

### 12.2.3 Church Street Precinct (HO315)

The southern part of the Church Street Precinct (HO315) included within the Study Area comprises three properties facing Church Street – 410, 412-414 and 416-418 Church Street – and the properties behind at 17A, 19 and 23 Dickmann Street. Of these only 410 and 412-414 Church Street are identified as ‘contributory’ in Appendix 8 with the rest being ‘not contributory’.

410 Church Street is a two-storey mid-Victorian (c.1860-1880) house with what appears to be a later single-storey shop added in the front garden and 412-414 Church Street is a pair of Inter-war (c.1925-25) two-storey shops and residences. While included within the C1Z (and therefore the Study Area), their character is closer to that of the residential component of HO315 to the north of these properties than Swan Street itself. The future character of this small area should seek to transition between new development between Swan Street to the south and the residential character of the bulk of HO315.

The properties are separated from HO335 by numbers 420-444 Church Street (which are not subject to the Heritage Overlay). Given the lack of streetscape consistency and heritage integrity, this part of the Study Area is not considered to meet the ‘exceptional circumstances’ test necessary to warrant mandatory street wall height controls on these properties.

It is therefore considered that a discretionary 11m street wall height be applied to this part of the Church Street Precinct (to the extent that it falls within the Study Area). While not prohibiting a street wall height higher than 11m, the discretionary control will effectively only apply to sites that are identified as ‘not contributory’. In addition, a preferred maximum street wall height equal to the adjacent ‘contributory’ heritage building at 412-414 should be established for development on 416-418 Church Street.

### 12.2.4 Burnley Street Precinct (HO474)

The majority of the Burnley Street Precinct (HO474) addresses the Burnley Street commercial strip rather than Swan Street. This precinct was identified in the 2014 *Heritage Gap Study – Review of Central Richmond* by Context P/L, which has informed Yarra Amendment C183 that was gazetted on 15 June 2017. HO474 incorporates the existing individual Heritage Overlays covering 413 and 415 Swan Street (HO442) and 400-402 Burnley Street (HO429), which are identified as being ‘individually significant’ within the precinct.

This precinct is a more typical ‘neighbourhood’ commercial and residential strip, containing a mix of one and two-storey shops and residences. Given the lack of streetscape consistency it is considered that the precinct does not meet the ‘exceptional circumstances’ test necessary to warrant mandatory street wall height controls. It is therefore considered that a discretionary 11m street wall height should be applied to the Burnley Precinct (to the extent that it falls within the Study Area), with the street wall height of new infill buildings adopting the height of the taller of the immediately adjacent two-storey ‘contributory’ or

‘individually significant’ building’s parapet, even if this is less than 11m in height.

### 12.2.5 Bendigo Street Precinct (HO309)

The status of these properties should be reconsidered with either all properties included in, or excluded from, the Study Area. If all properties remain within the Study Area, a street wall height control will not be required (by virtue of the ‘contributory’ status of these properties).

### 12.2.6 Site-specific Heritage Overlays

On Swan Street, east of HO335, a number of buildings are included (or are being considered further for potential inclusion) within site-specific Heritage Overlays. These buildings have been assessed as being “...heritage places in their own right” (Clause 22.02-3 – ‘Levels of Significance’). These places already have their street wall height established by their historic façade. The presumption against demolition within the Heritage Overlay will protect these façades. Where an opportunity exists for infill development on a street frontage within the curtilage of these places, the street wall height is to match the parapet height of the façade of the significant building.

### 12.2.7 Properties adjacent to heritage buildings

Further to the above heritage precinct considerations, it is recommended that a preferred street wall height be specified for sites immediately adjacent to (but outside) both precinct-based and individual Heritage Overlays (including those subject to Heritage Overlay controls in the future). A discretionary street wall height of 11m or the height of the adjacent ‘contributory’ or ‘individually significant’ heritage building is considered appropriate to encourage new development on Swan Street to be respectful of its heritage context and to provide a transition to higher development at the street frontage. Discretionary, rather than mandatory, controls are recommended in these locations as flexibility in design response is desirable in these transitional locations and the ‘exceptional circumstances’ test identified in PPN60 is not clearly met.

To encourage appropriate street wall heights for sites immediately adjacent to buildings included within the Heritage Overlay (whether they be ‘contributory’ or individually significant’) a control should be included within the DDO that states the street wall height of new development adjacent to, but not included within a Heritage Overlay, should not exceed the height of its taller ‘contributory’ or ‘individually significant’ neighbour where this is less than 11m.

### 12.2.8 Zero street wall setback from Swan Street

All heritage buildings along Swan Street are built to the street boundary. It is recommended that new infill development follow this precedent to retain the historic built form presentation to the street.

## 12.3 Upper level setbacks from the street wall (outside of the Dimmeys Tower view cone)

Within the extent of the Study Area, insofar as it is currently – or may in the future be – subject to the Heritage Overlay, setbacks of new development from the street boundary above the street wall height is necessary to:

- retain the historic scale of the predominantly two (Victorian-era) storey street wall along Swan Street;
- ensure key elements of heritage places remain prominent and legible within the streetscape, including the consistent application of parapets to the street frontage of heritage buildings;
- ensure that the new built form remains a recessive element so that upper level development does not visually distract from the heritage streetscapes, particularly in oblique views; and,
- ensure that heritage buildings are read “in the round” rather than as thin façades.

It should be noted that other amenity and planning objectives may require setbacks in excess of those identified below which have been established by heritage analysis based on modelling prepared by Tract

Consultants and a visual assessment of the streetscape.

### 12.3.1 Swan Street Precinct (H0335)

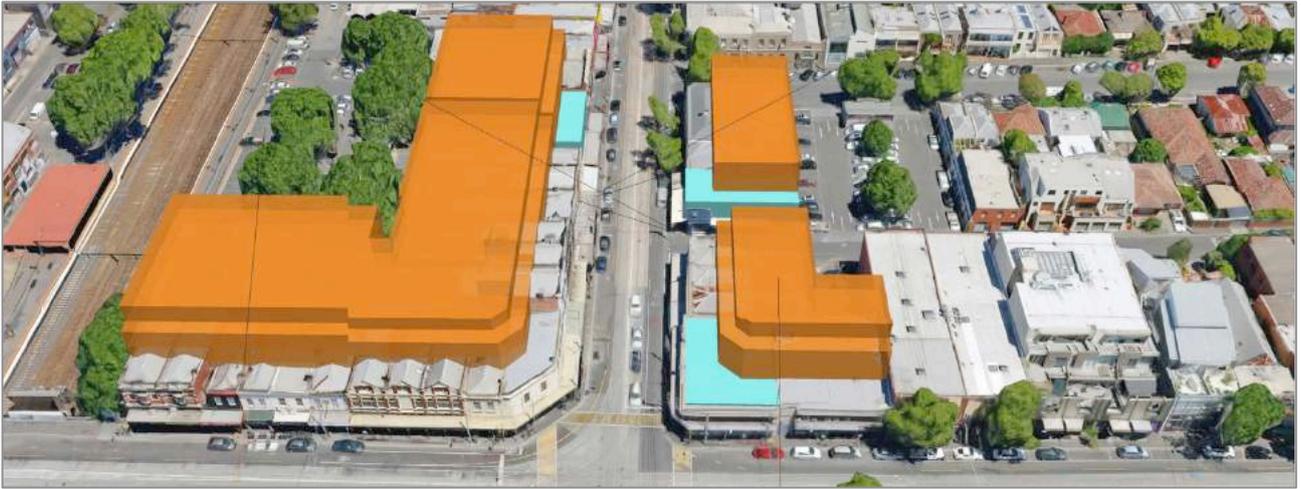
Within the Swan Street Precinct, the returns of façades on cross (north-south orientated) streets typically have a bay width of between approximately 3.5m and 5m; that is approximately one room (11' to 16') in depth. This also applies to some buildings within individual Heritage Overlays. This depth coincides with the 5m upper-level setback from the Swan Street street wall recommended by Tract Consultants. From our visual analysis on site and Tract's modelling we believe that 5m is an adequate minimum to achieve appropriate heritage outcomes.

There have been few upper level additions to buildings within the Swan Street Precinct (other than the redevelopment of the Dimmeys site itself), but the redevelopment of 127-133 Swan Street illustrates the impact of setbacks less than the recommended 5m. The redevelopment of this consolidated site incorporated a retained two-storey façade, the heritage status of which is currently identified as 'unknown' in Appendix 8. This six-storey development has a new upper level structure rising two-storeys approximately 3m from the street wall with a further storey set back a further 2m (see Figure 46).



**Figure 46: 127-133 Swan Street**

127-133 Swan Street clearly illustrates the adverse impact of a setback of less than 5m to Swan Street. While the bulk of the new development is partially masked behind the retained two-storey Boom-style Victorian façade and the three-storey contemporary façade to the east, it is highly evident from oblique views over adjacent lower scaled two-storey façades. The new development on this site is considered to unreasonably dominate the heritage streetscape and the heritage buildings due to its limited setback and starkly contrasting colour scheme. A setback less than 5m (which is approximately one room depth) can result in apparent façadism where the heritage building is no longer read as a three-dimensional building.



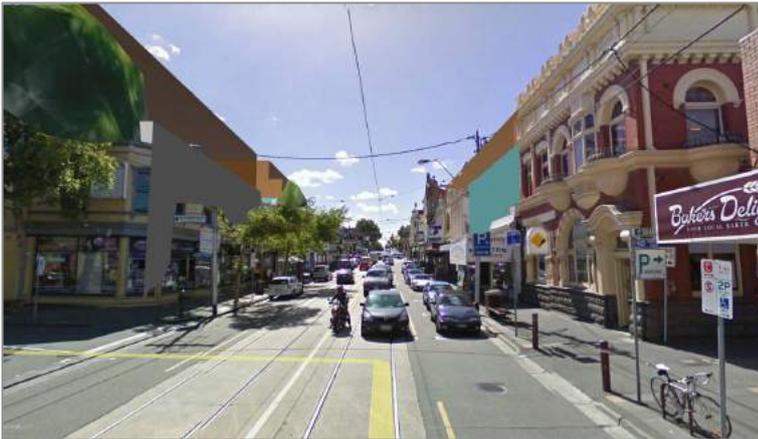
**Figure 47:** Aerial view of the 3D model looking west along Swan Street from the intersection with Church Street showing a 5m setback to six-storeys (20m) and a further setback above six-storeys in accordance with the 1/3:2/3 guidance (© Tract Consultants)



**Figure 48:** 3D model looking west along Swan Street from the intersection with Church Street showing 5m setback to six-storeys (20m) and a further setback above six-storeys in accordance with the 1/3:2/3 guidance (© Tract Consultants)



**Figure 49:** 3D model looking north along Church Street from the railway overbridge showing 5m setback to six-storeys (20m) and a further setback above six-storeys in accordance with the 1/3:2/3 guidance (© Tract Consultants)



**Figure 50:** 3D model looking east along Swan Street from Docker Street showing 5m setback to six-storeys (20m) and further setback above six-storeys in accordance with the 1/3:2/3 guidance (@ Tract Consultants)

Given the highly intact heritage fabric along the length of the Swan Street Precinct and the important contribution the High Street makes to the municipality, the 5m setback should be mandatory for HO335 (and any extension that may occur following further investigation, refer to Section 5.2). It is considered that this meets the ‘exceptional circumstances’ test and follows the precedent set in Moreland Amendment C134 in relation to Sydney Road within the Brunswick Activity Centre.

The built form character and quality of heritage fabric evident on Swan Street continues on the west side of Church Street between the railway line and Swan Street. To retain the visual prominence of this row of shops – and in particular the building at 238-240 Swan Street with its wide chamfer on the southwest corner of Swan and Church Streets – the mandatory 5m setback should be applied along this section of Church Street.

### 12.3.2 Richmond Hill Precinct (HO332)

Given the contiguous nature of the small parts of the Richmond Hill Precinct that form part of the Study Area with the Swan Street Precinct (HO335), the same mandatory setback controls should apply where they front onto Swan Street (being the Corner Hotel, 57 Swan Street).

The streetscape character of the side streets off Swan Street are less consistent as they transition to a residential character up Richmond Hill. A discretionary setback control of 5m for these streets is appropriate to allow a variety of design responses that take account of the wider range of existing built form.

To further encourage setbacks that do not adversely impact on the presentation or reading of heritage buildings in the streetscape, a design objective should be included within the DDO that states the preferred minimum setback should only be reduced if it can be demonstrated that new development will retain the ability for identified heritage buildings to be read as three dimensional forms and not simply façades. It should also state that the preferred minimum setback should only be reduced if it can be shown that the new development will not visually overwhelm neighbouring heritage buildings.

### 12.3.3 Church Street Precinct (HO315)

Given the largely isolated nature of this portion of the Church Street Precinct from the Swan Street Precinct, along with the mixed and less intact heritage nature of this area, it is considered that the ‘exceptional circumstances’ test for mandatory controls is not justified in this location. It is therefore recommended that a 5m discretionary setback for new development behind existing heritage façades should be applied to development of Church Street Precinct properties within the Study Area.

While it is noted that the SSSP recommends a 3m setback, a 5m setback will encourage setbacks of greater than 3m without imposing mandatory controls, while ensuring heritage fabric remains prominent in any redevelopment. The setback behind the street wall of the ‘contributory’ buildings at 410-414 Church Street

should only be reduced if it can be demonstrated that new development will retain the ability for identified heritage buildings to be read as a three dimensional form and not simply a façade, and the new development will not visually overwhelm heritage fabric.

#### **12.3.4 Burnley Street Precinct (HO474)**

As noted in above, the Burnley Street Precinct presents as a much less homogenous and architecturally accomplished built form than the Swan Street Precinct. This precinct is a more typical mixed commercial and residential strip and it is considered that the ‘exceptional circumstances’ test necessary to warrant mandatory setback controls is not met. As a result, a discretionary 5m setback should be applied to the Burnley Street Precinct.

As recommended for the Richmond Hill and Church Street Precincts, a design objective should be included within the DDO that states the preferred minimum setback should only be reduced if it can be demonstrated that new development will retain the ability for identified heritage buildings to be read as three dimensional forms and not simply façades, and that the heritage streetscape will remain the prominent built form. It should also state that the preferred minimum setback should only be reduced if it can be shown that the new development will not visually overwhelm neighbouring heritage buildings.

The ‘individually significant’ buildings within the precinct should have mandatory 5m setback controls applied in recognition of their higher level of significance.

#### **12.3.5 Bendigo Street Precinct (HO309)**

As noted above, if all of the single-storey terraces are to be included in the Study Area, then a setback for new built form is required. Given the residential nature of the heritage fabric and the residential character of the area abutting the rear of these sites, it is considered appropriate that new development accords with the principles set out in Clause 22.02 of the Yarra Planning Scheme and is governed by the sightline approach contained at Clause 22.02-5.7.

It is considered that these buildings do not meet the ‘exceptional circumstances’ test necessary to warrant mandatory setback controls.

#### **12.3.6 Site-specific Heritage Overlays**

On Swan Street, outside of HO335, a number of buildings are included – or have the potential to be included – in individual Heritage Overlays. These buildings have been assessed as being *‘heritage places in their own right’* (Clause 22.02-3 – ‘Levels of Significance’). Given the important contribution buildings within site-specific Heritage Overlays make to the area and the municipality, the 5m setback from the street wall should be mandatory for these sites. It is considered that individual heritage significance meets the ‘exceptional circumstances’ test in PPN60 and mandatory controls should be applied for upper level setbacks.

Of these buildings, the former Burnley Theatre at 365 Swan Street is atypical in form with the front foyer element built to the street and the taller theatre auditorium set further back. In this instance a mandatory 10m setback is justified to allow the foyer element (approximately 7m in depth) to be retained and 3m of the form of the auditorium roof. The site adjoining this building to the east should have a control that encourages a 5m setback above the discretionary street wall.



**Figure 51:** Former Burnley Theatre, 365 Swan Street (© City of Yarra)



**Figure 52:** 3D model of development of the former Burnley Theatre looking east along Swan Street from Edinburgh Street showing a 20m setback to six-storeys (20m) to retain the form of the foyer and front part of the theatre (© Tract Consultants)

### 12.3.7 Properties adjacent to heritage buildings

Further to the above considerations, it is recommended that a preferred upper level setback be specified for sites immediately adjacent to (but outside) both precinct-based and site-specific Heritage Overlays. A discretionary upper level setback of 5m is considered appropriate to encourage new development to be respectful of its heritage context and to allow the important façade features of heritage buildings to remain prominent in the streetscape. Discretionary rather than mandatory controls are recommended in these locations as a flexible design response is desirable in these transitional locations and the ‘exceptional circumstances’ test identified in PPN60 is not clearly met.

## 12.4 Upper level side setbacks

There are a small number of varying corner conditions evident along Swan Street, particularly in relation to how ‘contributory’ and ‘significant’ buildings address corner sites, and each requires tailored responses in terms of upper level side setbacks for new built form.

It should be noted that other amenity and planning objectives may require setbacks in excess of that identified below.

### 12.4.1 Swan Street frontage

At the numerous corner sites along Swan Street it is more common for buildings to address these corners with a splayed form and/or a substantial return of the Swan Street façade treatment onto the cross street or laneway rather than a simple ‘end-of-terrace’ elevation. Typically the returns of façades on cross (north-south orientated) streets have a bay width (that is the distance between the centres of the windows or pilasters) of between approximately 3.5m and 5m (11’ to 16’). This equates to the depth/width of a typical Victorian-era room. The retention of this depth from the Swan Street frontage will help ensure that buildings can be appreciated as three-dimensional forms and avoid ‘facadism’. This strengthens the rationale for the proposed 5m setback of new development behind the front façade to Swan Street.

### 12.4.2 Corner buildings at prominent intersections

On intersections between Swan Street and major cross streets, buildings often have return façades and splays used together. The splays on these corners are larger – up to approximately 9.5m wide in the case of 238 Swan Street.

In these instances the building and its presentation to the cross street is as important visually and historically as the manner in which it addresses Swan Street. These sites are also generally larger than the typical narrow nineteenth and early twentieth century buildings along Swan Street. It is recommended that for these sites the setback applied to the Swan Street frontage should also be applied to the cross street elevation and the 45° angled splay. This is necessary to allow these buildings to be read as three-dimensional forms from both street elevations, with the key view normally being from diagonally opposite the building.

The junction of Swan and Church Streets is the key intersection within the Swan Street Precinct. On the southwest corner of this intersection is 238 Swan Street, the two-storey mid-Victorian former M. Ball & Co. building that boldly addresses the corner with a deep splay. It is identified in Appendix 8 as ‘individually significant’. The three-storey late-Victorian Swan Hotel at 425 Church Street occupies the southeast corner of the intersection and is also identified in Appendix 8 as ‘individually significant’. Both buildings that occupy the northern sides of Swan and Church Street intersection are two-storey commercial buildings of the c.1970s.

Given the prominence of this intersection and the two individually significant buildings addressing it, the 5m upper level setback should be mandatory for all buildings that address this intersection. It is considered that this meets the ‘exceptional circumstances’ test.



**Figure 53:** 238 Swan Street (southwest corner of Swan and Church Streets)



**Figure 54:** 3D model looking southwest at the intersection of Church and Swan Streets showing 5m setback to six-storeys (20m) and further setback above six-storeys in accordance with the 1/3:2/3 guidance (© Tract Consultants)



**Figure 55:** The Rising Sun Hotel (northwest corner of Swan and Burnley Street)

The other major intersection along Swan Street is the corner of Swan and Burnley Streets. A short strip of heritage properties are included within HO474 on the north side of Swan Street, terminating at the northeast corner of the intersection, which is occupied by the Rising Sun Hotel. The built form in this area is less homogenous and less architecturally accomplished than the Swan Street Precinct. It is considered that the built form at this intersection would not meet the ‘exceptional circumstances’ test necessary to warrant mandatory setback controls.

The Precinct Hotel at 60-62 Swan Street is not located at the corner of a ‘major’ intersection like Church or Burnley Streets, but nonetheless this ‘individually significant’ building (HO405) is located at a prominent street corner and has façades that address both Swan and Cremorne Streets equally. In this instance, and given its ‘individually significant’ status, a mandatory 5m setback would be appropriate to be applied to both the Swan and Cremorne Street boundaries.



**Figure 56: The Precinct Hotel (60-62 Swan Street)**



**Figure 57: The Corner Hotel (57 Swan Street)**

Like the Precinct Hotel, the Corner Hotel at 57 Swan Street occupies a prominent corner location – in this case addressing three streets - and is identified in Appendix 8 as being ‘individually significant’. However, this building is atypical in its form and its heritage value resides more heavily in its social and historical significance than its architectural significance or its contribution to the wider streetscape. Mandatory setbacks other than those proposed to the Swan Street frontage would appear to be unnecessary.

### 12.4.3 Corner buildings on ‘minor’ streets or laneways

Returns of facades on minor (north-south orientated) streets generally have no splay or a much smaller splay of no more than 1.2m in width. Those buildings on corner sites within the Swan Street Precinct (HO335) generally have façades that return some distance around the corner. The presence of an often highly detailed façade to the cross street makes some setback from these elevations necessary to protect the identified heritage values of those buildings. Due to the narrow frontage of some of these buildings on Swan Street, the return façade can be as long – or longer – than the Swan Street façade (as shown in Figures 58 and 59 below). However, in most cases, the Swan Street façade normally remains the principal elevation that contributes to the heritage values of the precinct or individual building.

Some smaller, earlier Victorian buildings have no return of the main façade onto the cross street and instead have an unadorned end-of-terrace wall to the side street or laneway. The lack of adornment of these sidewalls may mean that new development can be constructed up to the street frontage without adversely affecting their heritage values or their presentation in the precinct.

Due to the variety of different façade return conditions evident on minor streets, cross street setbacks should be articulated as a 5m discretionary setback as flexible design approaches encouraged in PPN59 are required.

Decision making criteria in relation to allowing setbacks of less than 5m should include:

- Is the elevation on the cross street a continuation of the Swan Street façade?
- Does the setback ensure the heritage building can be read ‘in the round’ and not appear as a thin façade?
- Does the setback accord with an existing bay depth or module of the historic façade?
- Does the setback achieve the 1/3:2/3 relationship between new development and the existing façade height?
- Does the setback match existing development behind adjacent ‘contributory’ and ‘individually significant’ buildings?



**Figure 58:** Southeast corner of Green and Swan Streets



**Figure 59:** Northeast corner of Clifton and Swan Streets



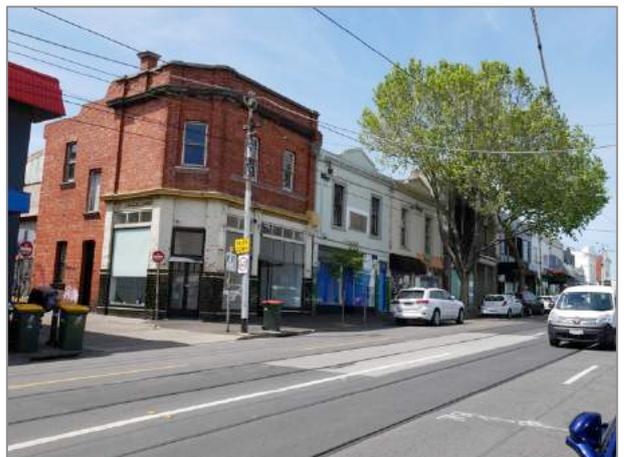
**Figure 60:** Southwest corner of Byron and Swan Streets



**Figure 61:** Southeast corner of Kipling and Swan Streets



**Figure 62:** Northeast corner of Dickmann and Swan Streets



**Figure 63:** Northeast corner of St Crispin and Swan Streets



**Figure 64:** Northwest corner of Dando and Swan Streets



**Figure 65:** Northwest corner of Charles and Swan Streets

## 12.5 Visual relationship between street wall and higher built form behind in Heritage Overlays

The SSSP establishes a ratio of new development behind the street wall of less than 1/3:2/3 (i.e. the upper third of the visible form is new development and the lower two thirds is the street wall). The application of this ratio to typical two-storey (Victorian-era) buildings will – when combined with set backs, appropriate façade articulation, materials and finishes – achieve an outcome that will help ensure new development is recessive and does not detract from the heritage streetscape and façades. Whereas the mandatory and discretionary controls proposed will set street wall heights and minimum setback distances, the application of the 1/3:2/3 ratio may necessitate deeper setbacks than the minimum setbacks required in the DDO.

To allow for innovative design responses to the heritage context, the 1/3:2/3 ratio should be treated as a discretionary control. The variation in the predominantly two-storey façade height and the street widths means that a mandatory application of this ratio is unlikely to achieve outcomes that “...will be appropriate in the vast majority of cases” as required by PPN59 in order for mandatory controls to be considered. The application of street wall height and setback controls combined with the discretionary 1/3:2/3 ratio will provide adequate guidance for new development.



**Figure 66:** 145 Swan Street with ‘wedding cake’ development behind.

The 1/3:2/3 ratio should be a consideration in relation to development above the street wall on side streets as well Swan, Church and Burnley Streets. This will help ensure that new development within the Study Area does not visually overwhelm these streets, which generally act as a transition between the commercial character of Swan Street and adjacent residential areas.

There are a small number of single-storey buildings identified as ‘contributory’ in the Swan Street Precinct (for instance 184-186 and 244-246 Swan Street – refer Figures 67 and 68). The retention of ‘contributory’ single-storey buildings and the application of the 1/3:2/3 rule would potentially create a visually distracting backdrop to the heritage streetscapes by causing new development to step up and down depending on whether the façade of the ‘contributory’ or ‘individually significant’ building is single, two or three-storeys in height. It is considered that having a more consistent backdrop to the highly intact heritage streetscape is preferable to one that changes based on the height of the façade of the heritage building. Discretion should therefore be applied to the 1/3:2/3 ratio to allow for a higher degree of visibility of new built form behind the single-storey frontage of ‘contributory’ buildings, similar to that provided in the controls for Sydney Road, Brunswick.

Moreland DDO18 provides a precedent for a control to accommodate more visible built form where the heritage building is lower than the predominant street wall. It states:

- *Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons new development may occupy more than one quarter of the vertical angle defined by the whole building...*



Figure 67: 184-186 Swan Street

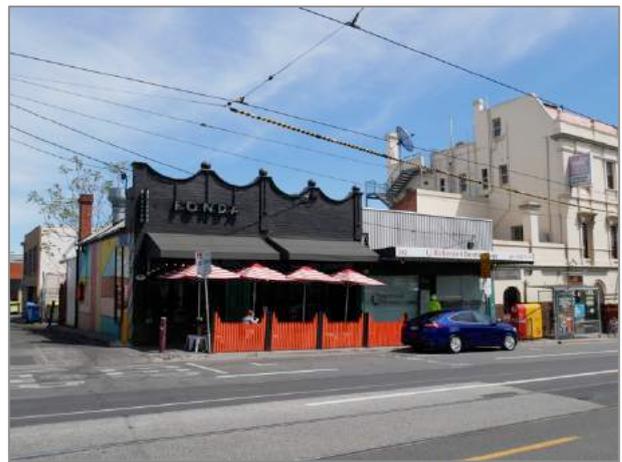


Figure 68: 244-246 Swan Street

## 12.6 Rear interfaces

There are a range of rear interfaces between the Study Area and other commercial and residential buildings affected by the Heritage Overlay, in particular HO332 Richmond Hill Precinct, which covers a large area of primarily residential development north of Swan Street. The types of rear interfaces identified between the Study Area and adjoining Heritage Overlays include:

- Rear laneways running parallel with Swan Street
- Low-scale commercial buildings built to their side boundary
- Single-storey detached houses
- Single and two-storey houses built to their side boundary.

Due to the high-density nineteenth century residential development of the Richmond area, terraced housing is one of the most common building types abutting the buildings on the north side of Swan Street. In these instances single and two-storey terraced houses (or shop with dwelling above) are generally built to the boundary of the adjacent commercial building facing Swan Street. As a result, there is no heritage basis for requiring at-grade setback from these buildings. However, the following recommended policy

could assist in ensuring that new development does not overwhelm the scale of residential buildings within the Heritage Overlay where they directly abut the rear of Swan Street properties:

*Where new development abuts a residential property in the Heritage Overlay, the height of the new development should not exceed one-storey higher than the abutting ‘contributory’ or ‘individually significant’ dwelling i.e. a maximum wall height of two-storeys should be constructed against a single-storey dwelling and a maximum wall height of three-storeys should be constructed against a two- storey dwelling.*

It should be noted that in many instances other planning controls, including amenity controls, may require lower built form than would be achieved by the above policy.

In the main, the heritage impacts on adjoining residential properties are ameliorated by the setbacks and height limits developed to deal with daylight, overshadowing and overlooking, especially where a laneway or minor street separates the new development on Swan Street from the residential precinct. While it is important to limit the amenity impacts, it is considered that preferred building envelopes should avoid ‘wedding-cake’ designs that can lead to poor architectural and urban design outcomes.



**Figure 69:** Interface between new development and single-storey terraced house built to boundary (western side of Clifton Street)



**Figure 70:** Interface between two-storey (shop with flat above) Victorian commercial building, single storey commercial building and a detached dwelling (eastern side of Lennox Street)



**Figure 71:** Interface between existing Swan Street buildings, two-storey Edwardian commercial buildings and two-storey Victorian terraces (western side of Lennox Street)



**Figure 72:** Interface between two-storey modern development and two-storey Victorian terraced housing (western side of Docker Street)

## 12.7 Overall height limits within Heritage Overlays

The maximum height that can be achieved by a new development on any one site within the Study Area will be largely determined by a combination of the proposed heritage-related height and setback controls (i.e. wall height, upper level set back, and the 1/3:2/3 ratio) along with the setbacks and height limits required to achieve other planning and amenity outcomes, including the relationship of new built form with adjacent low-scale residential development. The widely differing land parcel size is also a significant determining factor in the height of built form that can be accommodated, with larger or consolidated lots able to accommodate larger scale development than narrow lots typical of the nineteenth century shop and residence.

Some guidance on the maximum height that can be accommodated within the Swan Street Precinct can be drawn from the Dimmeys redevelopment. Although the Dimmeys redevelopment was controversial, it was found to be acceptable both under the *Heritage Act 1995* through the heritage permit process, and by VCAT in *Richmond Icon Pty Ltd v Yarra CC [2011] VCAT 2175* under the Yarra Planning Scheme. The permits ultimately issued by VCAT and the Executive Director, Heritage Victoria were for the construction of a slender, ten-storey tower (36m high) of high-quality design with a deep setback of approximately 23m from the Swan Street facade. Now completed, the height of the new residential tower behind Dimmeys does not appear to be unreasonable or detrimental to the heritage values of the Swan Street Precinct, although it is noted that the design all assists in ameliorating negative visual impacts on the streetscape. Noting this, a ten-storey height (approximately 35m), coupled with a high quality design outcome, could be considered the maximum desirable height within the Swan Street Precinct.

It should also be noted that Dimmeys represents an atypically large site within the Swan Street Precinct, and that there are no other single lots subject to the Heritage Overlay that provide anything approaching Dimmeys in size. Even if major consolidation of land was to occur, it remains unlikely that there will be a site of the size of Dimmeys available for redevelopment.

The Study identifies preferred maximum building heights of generally 8-10 storeys on the southern side of Swan Street within HO335 and 5-6 storeys on the north. Outside the heritage precincts this rises to 10-12 storeys on the southern side of Swan Street and 8 storeys on the north. In the context of the other proposed controls and the 11m maximum street wall height, it is considered that these heights can be accommodated without overwhelming the heritage streetscapes; however these controls should be articulated in metres rather than storeys in accordance with PPN60.

In other parts of the Study Area affected by the Heritage Overlay the Study identifies a 6-7 storey height for 'individually significant' buildings on the north side of Swan Street at numbers 291 (HO285 – former Central Club Hotel), 309 (HO440 - former Swan Street Drill Hall), 319 (HO441) and 365 (HO286 - former Burnley Theatre). While numbers 291, 309 and 365 are larger sites and can accommodate higher built form, number 319 is smaller and is unlikely to comfortably support more than four-storeys.

The section of HO474 – Burnley Street Precinct within the Study Area has a height of 7-9 storeys identified in the Study. This is unlikely to be achieved in this location without adversely affecting the presentation of this precinct. Having said this, the narrow nature of the sites and other proposed controls (including setbacks and the 1/3:2/3 ratio) will also limit the actual height that can be achieved in this area.

The three single-storey properties within the Bendigo Street Precinct (HO309) are identified for development up 5-7 storeys. This cannot be achieved without totally compromising their heritage values and these three 'contributory' buildings should be rezoned NRZ and excluded from the Study Area.

Consideration of height should take account of the impact on both the individual heritage building and the wider heritage precinct. Heights that overwhelm the scale of the street or diminish the prominence of the existing two to three-storey heritage street wall are considered unacceptable.

## 13. Additional DDO guidance

Having considered the heritage of Swan Street and acceptable envelopes for new built form, the following section outlines additional matters recommended for inclusion in a DDO for the Study Area.

### 13.1 Development within the Heritage Overlay

In addition to the Heritage Policy at Clause 22.02, it is recommended that the following additional requirement be included within the DDO for the development of all sites subject to the Heritage Overlay within the Study Area:

- An application for the redevelopment of a site within the Heritage Overlay must be accompanied by a heritage impact statement prepared by a suitably qualified heritage consultant providing an assessment of the proposal against the significance of the property (if any) and the precinct it sits within.

It is recommended that the following matters be considered in relation to all ‘contributory’ and ‘individually significant’ buildings within the Study Area:

- If an up to date Conservation Management Plan (CMP) exists for the place, its recommendations should inform any decisions with respect to demolition and redevelopment.
- Original or early shop-fronts should be retained. The reinstatement of early shop-front designs is encouraged. Where the form of an early recessed entry has survived this should be retained.
- Where evidence of an early street verandah exists it should be reinstated.
- The conservation of heritage building through repair, restoration and reconstruction (where appropriate) should be encouraged.

### 13.2 Individually significant buildings

Clause 22.02-3 – ‘Levels of Significance’ states that an ‘individually significant’ building “...is a heritage place in its own right”. Whether within a precinct or an individual Heritage Overlay, the conservation of these buildings should be given the highest priority. In addition to those already within Clause 22.02 of the Yarra Planning Scheme, the following policy should apply to ‘individually significant’ buildings within the Study Area:

- The roof form of an ‘individually significant’ building between the parapet and any new development should be retained where it is visible from the public realm and/or contributes to the significance of the heritage place.
- Redevelopment involving the addition of new floor area to an ‘individually significant’ building must be accompanied by a condition survey of the façade of the building prepared by a suitably qualified heritage architect and include necessary works to conserve or restore the façade.
- Prior to any redevelopment to increase floor area, a full photographic record to the satisfaction of the responsible authority of the façade/s of an ‘individually significant’ building must be undertaken and provided to Council.

### 13.3 Articulation, materials and façade treatment of new development

The built form controls in relation to height and setbacks will need to be complemented with policy to encourage the respectful and recessive design of taller development behind the street walls. The relevant design elements include façade articulation and treatment, and choice of materials, including their colour and texture.

Flexibility in design approaches should be retained to accommodate a range of architectural responses from a ‘contextual’ approach (that utilises similar materials, fenestration patterns and proportions as the

heritage fabric) to a ‘contemporary’ approach (that juxtaposes obviously modern materials and façade treatments against the masonry façades). While both approaches can be valid responses to new development within a heritage context, it is more likely that a contextual design approach that respects the masonry form and fenestration patterns of the heritage buildings will be appropriate for the design of infill buildings within the street wall, and that a more contemporary approach that uses visually lightweight materials and finishes will result in contrasting but recessive upper level additions.

Although dealt with in part by the Heritage Policy at Clause 22.02, the inclusion of the following policies within the Swan Street DDO would assist in ensuring recessive new development that does not overtly compete with, or visually overwhelm, the nineteenth and early twentieth century facades:

### **13.3.1 Infill development within the Heritage Overlay**

In relation to new infill buildings within a heritage street wall, the DDO should:

- Encourage new development that interprets the historic façade rhythm, including fenestration patterns and proportions, the relationship between solid and void, and the module of structural bays.
- Encourage new development to be distinguishable from the original heritage fabric and adopt a high quality and respectful contextual design response.
- Encourage façade treatments and the articulation of new development to be simple and not compete with the more elaborate detailing of nineteenth century buildings.
- Encourage fenestration patterns of new development that respects the vertical proportions of nineteenth and early twentieth century façades and avoids large expanses of glazing with a horizontal emphasis except to ground floor shopfronts.
- Maintain the existing canopy/verandah height.
- Avoid the use of unarticulated curtain glazing or highly reflective glass.
- Avoid the replication of existing decorative features and architectural detail.
- Encourage articulation of ground floor facades that facilitate activated street frontages.

### **13.3.2 ‘Contributory’ and ‘individually significant’ buildings within the Heritage Overlay**

In relation to the adaptation of existing ‘contributory’ and ‘individually significant’ buildings, the DDO should:

- Discourage highly reflective glazing in historic openings.
- Ensure the inter-floor height of the existing building is maintained and avoid new floor plates and walls cutting through historic openings.
- Encourage the retention of solid built form behind retained facades and avoid balconies behind existing openings.
- Retain historic shopfront where they exist.

### **13.3.3 Upper level development**

In relation to new upper level development behind the street wall, the DDO should:

- Ensure that the design and setback of the addition does not visually dominate the heritage building or surrounding heritage places.
- Retain the primacy of the three-dimensional form of the heritage building within the streetscape.
- Encourage the materials and finishes utilised for new development behind heritage and infill buildings to be recessive in texture and colour.

- Encourage visually lightweight materials that provide a juxtaposition with the heavier masonry of the heritage facades.
- Encourage simple architectural detailing so it does not detract from significant elements of the existing building or streetscape.
- Encourage a consistent and recessive backdrop to the heritage street wall and individual heritage buildings.
- Discourage highly articulated facades with recessed and projecting elements.
- Discourage highly contrasting or vibrant primary colours.
- Avoid unarticulated façades that give a bulky appearance, especially from oblique views.
- Ensure new development is articulated to reflect the fine grained character of narrow sites.

## 14. Conclusion

The Swan Street Built Form Study Area contains precincts and individual buildings of local and state-level heritage significance. It also contains one of a limited number of highly intact turn of the century High Streets within the City of Yarra and wider metropolitan Melbourne.

Swan Street is an important and vibrant commercial strip, the character of which changes along its length from Punt Road in the west to Burnley Park in the east. As a Major Activity Centre it plays an important role in the social, retail and commercial life of the City of Yarra, and is defined in part by its heritage buildings and streetscapes.

The identification of heritage places is generally comprehensive throughout the Study Area; however, this Heritage Review has found that there are a small number of places that warrant further consideration for inclusion on the Heritage Overlay.

The Swan Street Structure Plan seeks to provide a sustainable vision that balances the protection of heritage values with the need for increased density and development along the Swan Street corridor. Recent VCAT decisions have shown that additional controls – beyond those provided by the existing heritage provisions – are required within the Yarra Planning Scheme to protect the setting and context of those heritage places that fall within the Swan Street Activity Centre and to implement the Structure Plan.

The draft Swan Street Built Form Study prepared by Tract Consultants has identified the need for both mandatory and discretionary height and setback controls to protect the scale and prominence of heritage buildings and precincts along Swan Street. In particular, the importance of the view shed to the state-significant Dimmeys Building and the consistent scale, character and high architectural quality of the High Street of Swan Street (subject to HO335 – Swan Street Precinct, and part of HO332 – Richmond Hill Precinct) meets the tests for the use of mandatory built form controls set out in Planning Practice Note 59: *The role of mandatory provisions in the planning schemes* and Planning Practice Note 60: *Height and setback controls for activity centres*. In other parts of the Study Area subject to precinct Heritage Overlays, the use of discretionary built form controls with design objectives to inform new development is appropriate for the guiding future development of these areas. This Heritage Review has identified some further refinements to be made as part of the finalisation of the Swan Street Built Form Study.

Recent Planning Panels considering the application of built form controls within areas subject to the Heritage Overlay have concluded that it is appropriate for the Design and Development Overlay to specifically include design objectives intended to protect heritage places. In the case of the Moreland Amendment C134, mandatory controls have been applied to achieve this objective.

The Design and Development Overlay proposed to apply to the Study Area should include built form controls – including but not necessarily limited to: street wall height, setbacks, ratio of new development to heritage façade/street wall, overall height, articulation, materials and finishes – to ensure that new development respects the heritage context and does not visually overwhelm the predominantly two-storey scale of the heritage streetscapes.

It is considered that the existing heritage provisions of the Yarra Planning Scheme (particularly Clause 22.02) will not, in themselves, provide adequate controls to inform new development within the Study Area. A Design and Development Overlay that includes heritage objectives is necessary to ensure that an appropriate balance is struck between the protection of the heritage values of the corridor and other planning objectives. The proposed mandatory and discretionary street wall height and setback controls – in conjunction with the proposed ratio of new built form to street wall, and design objectives for articulation of façades, materials and finishes – should ensure appropriate new development is accommodated while preserving the heritage values of the Swan Street corridor.

Appendix 1: Clause 22.02, page 6

YARRA PLANNING SCHEME

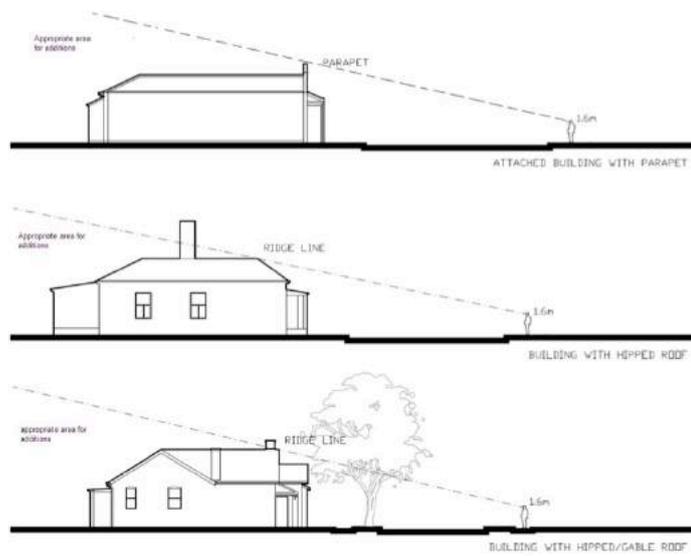


Figure 2 – appropriate areas for upper level additions to contributory buildings are sited within the ‘envelope’ created by projecting a sight line from 1.6 metres above ground level (eye level of average adult person) from the footpath on the opposite side of the street through the top of the front parapet or the ridge line of the principal roof form.

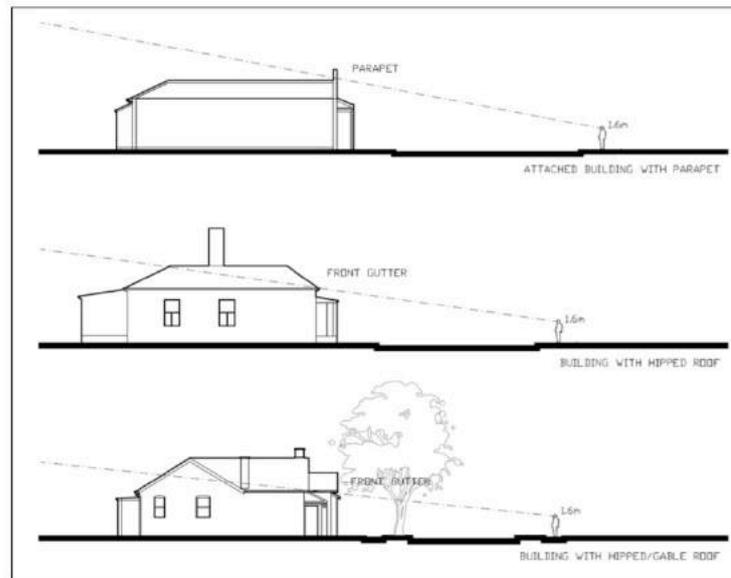


Figure 3 – appropriate areas for upper level additions to individually significant buildings are sited within the ‘envelope’ created by projecting a sight line from 1.6 metres above ground level (eye level of average adult person) from the footpath on the opposite side of the street through the top of the front parapet or the gutter line of the principal roof form.

## Appendix 2: Recent Planning Panels Victoria Reports

Planning Panels Victoria has recently considered three Planning Scheme Amendments that are of direct relevance to the Study and this Heritage Review. Two council-led amendments, Banyule Amendment C93 and Moreland Amendment C134 and Melbourne Amendment C240, which was prepared by the Minister for Planning, are discussed below.

### Panel Report, Banyule Planning Scheme Amendment C93

Banyule Planning Scheme Amendment C93: Implementation of the Ivanhoe Structure Plan, 1 July 2014 was prepared by Banyule City Council and sought to:

- Introduce Clause 21.08-3 – ‘Ivanhoe Major Activity Area’ (MAC), into the Municipal Strategic Statement.
- Make a number of zone and overlay changes to implement the recommendations of the Ivanhoe Structure Plan.

The area covered by the Ivanhoe Structure Plan is centred around the Heidelberg Road and Upper Heidelberg Road shopping strip that was primarily developed between 1915 and 1940. At its northern end is the Heidelberg Town Hall, a Moderne-style civic complex dating from 1937 that is included on the VHR (H2077). Close to the centre are the Ivanhoe Bowling Club, tennis courts, a public golf course abutting the Yarra River and open spaces including Rockbeare Park, the Darebin Parklands, Sparks Reserve and Chelsworth Park. The surrounding residential areas are typified by detached Victorian, Edwardian and Inter-war housing in tree-lined streets. The Heritage Overlay applies to various individual sites and precincts within the MAC, and the *Ivanhoe Activity Centre Heritage Items And Precincts* study by Context P/L (3 June 2013) recommended one additional individual place and two precincts for inclusion in the Heritage Overlay.

Amendment C93 rezoned land within six Structure Plan precincts and introduced DDO controls to guide design and built form for housing growth and other development.

Of relevance to this Study is that the Panel considered submissions in relation to:

- Proposed building height and setbacks
- Maintaining neighbourhood character
- Protection of sensitive interfaces and abutments.

Precincts 1 (Heidelberg Road) and 5 (Upper Heidelberg Road) are most relevant to the Swan Street context.

In considering height controls within the proposed DDOs, Panel considered that a 15m (i.e. four commercial levels) discretionary height limit was appropriate for the shopping strip on Heidelberg Road (Precinct 1) with a discretionary street wall height of between 7.5m (i.e. two domestic storeys) and 9m (i.e. three domestic storeys). Setbacks varied between 3m and 6m depending on the abutting land use. For properties facing Heidelberg Road a setback of 6m was supported:

*The Panel supports the retention of Setback 2 on the frontage to Heidelberg Road with any upper level(s) above 7.5m above natural ground level (or the 9m podium?) required to be set back 6m. This would provide a recessive element on the upper levels of the front facade thereby helping avoid unacceptably dominating wall height when viewed from the roadway and dwellings opposite. (p18).*

Panel considered that the Upper Heidelberg Road shopping strip (Precinct 5) could sustain an 18m (i.e. five commercial levels) discretionary height limit and required a 3m setback above a 9m podium to the street, and a 4.5m setback from the property boundary unless it abuts a laneway in which case a 3m setback applies.

It is noted that the approved Schedule 11 to the DDO (DDO11) includes the clause:

*On land affected by the Heritage Overlay if there is any conflict between this Schedule and the*

*Requirements and Objectives of the Heritage Overlay, the provisions of the Heritage Overlay take precedence.*

The approved amendment applied discretionary height limits of between 9m and 15m along Heidelberg Road (Precinct 1) and between 12m and 18m along Upper Heidelberg Road (Precinct 5) with podium heights of 9m in Mixed Use Zone areas and 7.5m in other residential zones. Setbacks above the podium are a minimum of 6m from the street or the existing setback of an abutting property if that is less and 3m from laneways.

## **Panel Report, Moreland Planning Scheme Amendment C134**

Moreland Planning Scheme Amendment C134 Brunswick Activity Centre, 15 May 2015 was prepared by the City of Moreland to amend planning controls to the Brunswick Activity Centre (BAC). The BAC is a large activity centre of approximately 800 hectares which, of most relevance to Swan Street, includes the Sydney Road, Lygon Street and Nicholson Street ‘corridors’. Panel noted that the amendment is a complex one based on a wide range of investigations and reviews undertaken by Council, commencing with the *Brunswick Structure Plan*, 2010. The amendment was underpinned by a number of reports and investigations including heritage studies dating back to 1990.

A key issue of the Panel was the appropriateness of mandatory controls. The amendment, as originally exhibited, included discretionary controls. However, in response to public submissions, the City of Moreland re-exhibited the amendment with a number of built form controls converted from discretionary to mandatory. Expert urban design and heritage evidence noted the high degree of consistency of height in the Sydney Road corridor (‘Local Area 1’) and supported a mandatory 11m street wall height limit.

In their discussion on mandatory controls, Panel states:

*The Panel does not generally support the use of mandatory controls in an Activity Centre which is designated to absorb substantial growth and where they do not meet the threshold requirements for the use of mandatory controls noted in PPN59. Indeed, the Panel notes that the DDOs in this Amendment were underpinned by the strategic work undertaken by DLA which intended the controls to be discretionary in order to allow development proposals the flexibility to respond to site context guided by discretionary built form parameters.*

*Having said this, the Panel supports the use of a mandatory street wall height in Sydney Road because of its consistent and significant heritage qualities. It accepts Mr Sheppard’s street wall height analysis and Mr Helms’ heritage evidence that the street wall is an important contributory feature of the character and heritage significance of the street which justifies a mandatory street wall height. It supports Council’s changes to DDO18 to note that the mandatory street wall height provisions only apply to buildings fronting Sydney Road. (p27)*

In the ‘Overall Conclusions and Recommendations’ the Panel stated:

*Importantly, the Panel does not support the use of mandatory controls, except for street wall heights along Sydney Road. Council decided to introduce mandatory controls in its revised Amendment and this was a key issue in many submissions.*

*The Panel has recommended that mandatory controls be converted to discretionary controls, except for mandatory maximum street wall heights along Sydney Road. This approach is consistent with the original Amendment exhibited by Council and with all of the expert evidence presented during the Hearing, including Council’s expert evidence. A discretionary framework will provide an appropriate level of flexibility for new development to respond to its site and context. p(i)*

Panel also considered whether heritage is an appropriate built form issue that should be guided by the DDO with some submitters arguing that heritage should only be dealt with through the Heritage Overlay. Panel noted the following ‘decision guideline’ in the head clause for the DDO:

*Whether the design, form, layout, proportion and scale of any proposed buildings and works is compatible with the period, style, form, proportion, and scale of any identified heritage places surrounding the site.*

Panel concluded:

*The Panel agrees with Council and its experts that heritage is an appropriate issue which DDOs can provide guidance on. The head clause of the DDO identifies this. The Heritage Overlay informs decision makers what is significant, but not how development should respond to that significance by way of a built form response. This is an obvious role for the DDO, .... This guidance is important, not only for listed properties, but also for properties which sit next to or could impact on the significance of a listed place. (p29)*

Panel considered the building heights, street wall heights and setbacks proposed in the DDOs and found that the 'mid-rise' vision was appropriate with the width of the street defining the street wall of new development at a ratio of 1:1. The setback of upper levels above the street wall is generally 3-5m (5m to Sydney Road). The setback provided adjacent to residentially zoned land at third floor level and above is 10m with the height at boundary ranging from 5m (where there is no laneway), to 8m (where there is a laneway) and up to 11m where there is a widened laneway.

Schedule 18 to the DDO (DDO18) (Brunswick Activity Centre - Sydney Road and Upfield Corridor) includes the following built form design objectives relevant to heritage:

- *To encourage a new mid-rise built form character with buildings generally ranging from 4-10 storeys with lower built form at the interfaces with the adjoining low rise residential areas.*
- *To complement the valued built form and heritage character along Sydney Road.*
- *To ensure the street wall remains the visually dominant element of all development in Sydney Road and that any height above the street wall is visually recessive, subservient and does not dominate the streetscape appearance.*
- *To ensure new street wall heights along Sydney Road complement the prevailing Victorian and Edwardian streetscape character.*
- *To reinforce the fine grain character of Sydney Road.*
- *...*
- *To ensure development is designed to respect the form, design and context of buildings of individual heritage significance.*
- *To retain views along Sydney Road to landmark buildings of individual heritage significance.*

DDO18 provides specific guidance for buildings of individual heritage significance:

*Development on sites containing buildings of individual heritage significance where no preferred maximum height is specified on Map 1A (North) and Map 1B (South) should demonstrate:*

- *How the proposed building height responds to the heritage significance of the site and its context; and*
- *How the design objectives of this schedule have been met.*

DDO18 establishes a street wall height of 11m and a minimum setback of 5m to Sydney Road. In addition DDO18 includes a design objective that the upper levels of the building:

- *Be designed to ensure that it occupies no more than one quarter of the vertical angle defined by the whole building in the view from an eye-level of 1.7 metres on the opposite side of the street, as illustrated in Figure 1 below.*
- *Where an existing building with a street wall height of less than 11 metres is to be retained for heritage reasons new development may occupy more than one quarter of the vertical angle defined by the whole building outlined in Figure 1 above.*
- *Adopt the same street setback for at least 75% of the height of the upper levels to avoid*

*'wedding cake' built form outcomes.*

Where no upper level setback is specified within DDO18 the following guidance is provided:

*Development on sites containing buildings of individual heritage significance where no upper level setback is specified should demonstrate:*

- *How the proposed upper level setback responds to the heritage significance of the site and its context; and*
- *How the design objectives of this schedule have been met.*

The decision guidelines provided in DDO18 require that:

*Before deciding on an application, the responsible authority must consider, as appropriate:*

- *Whether the maximum building height is achievable having regard to lot size, dimensions (width and depth) and/or those sites within or adjoining the Heritage Overlay.*
- *Whether an increased upper level setback is required having regard to the heritage significance of the site or an adjoining site within the Heritage Overlay.*
- *Whether the preferred maximum street wall height is achievable having regard to the heritage significance of the site or an adjoining site within the Heritage Overlay.*
- *The extent to which development achieves the design objectives in Part 1.0 of this schedule.*

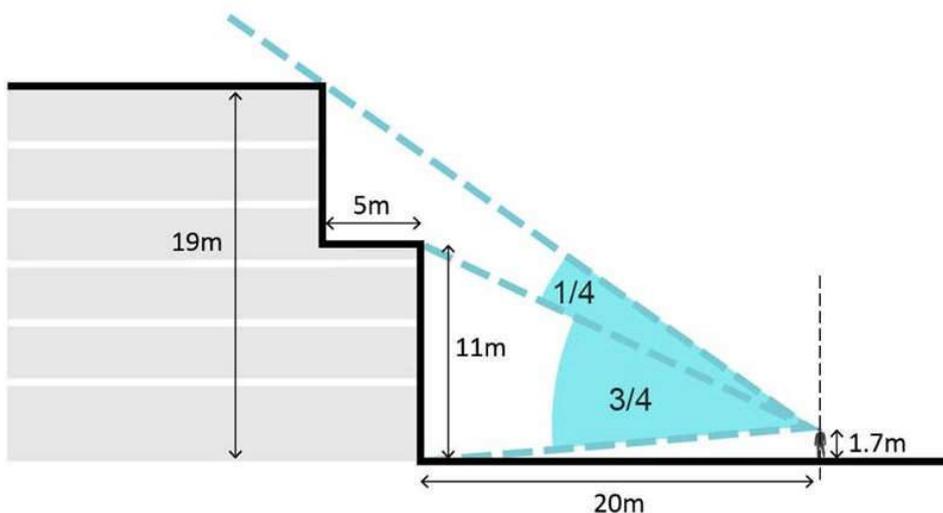


Figure 1 from DDO18 of the Moreland Planning Scheme

Schedule 19 to the DDO (DDO19) (Brunswick Activity Centre – Lygon Street Local Area) addresses heritage less directly than DDO18 but includes the following built form design objectives:

- *To create a new mid rise built form character that accommodates buildings generally ranging from 3 to 9 storeys.*
- *To reinforce the fine grain character of Lygon Street.*
- *To retain views along Lygon Street to buildings of individual heritage significance.*
- *To ensure the street wall remains the visually dominant element of all development in Lygon Street and that any height above the street wall is visually recessive, subservient and does not dominate the streetscape appearance.*
- *To ensure development is designed to respect the form, design and context of buildings of individual heritage significance.*

DDO19 also provides the following guidance:

*Development on sites containing buildings of individual heritage significance where no preferred maximum height is specified on Map 1A (North) and Map 1B (South) should demonstrate:*

- *How the proposed building height responds to the heritage significance of the site and its context; and*
- *How the design objectives of this schedule have been met.*

The decision guidelines provided in DDO19 require that:

*Before deciding on an application, the responsible authority must consider, as appropriate:*

...

- *Whether the maximum building height is achievable having regard to the heritage significance of the site or an adjoining site within the Heritage Overlay.*

## **Panel Report, Melbourne Planning Scheme Amendment C240**

Melbourne Planning Scheme Amendment C240 - Bourke Hill, 4 May 2015 proposed to introduce height and other design controls as well as revised heritage controls in the Bourke Hill area of the CBD.

The area considered for the amendment was bound by Lonsdale Street to the north, Little Collins Street to the south, Exhibition Street to the west and Spring Street to the east. Much of its building stock in this area dates from the nineteenth century, predominantly the pre-boom period. Most buildings fronting Bourke Street are less than 10m tall, generally consisting of two and three-storey Victorian shop buildings with a few taller buildings such as the former Palace Theatre and the Salvation Army building at 18m and 26m respectively. In considering the amendment, Panel noted that the low scale built form on Bourke Street facilitates sunlight access to public places, 'big skies' and a view corridor to and from Parliament House. The Panel went on to say that the presence of numerous laneways makes an important contribution to pedestrian amenity and the permeability of area. The laneway characteristics add to the perceptible heritage values.

Amendment C240 replaced interim mandatory height controls over Bourke Hill introduced through Amendment C237. That interim amendment was specifically sought to protect the heritage values of the precinct as stated in the explanatory report:

*Bourke Hill is identified in the Melbourne Planning Scheme at clause 21.12 and clause 22.04 as an important heritage area and a precinct which relies on a consistency of scale for its unique character. Recently planning applications have been made for buildings in the Bourke Hill area which has highlighted the need for a review of the built form controls to protect this significant precinct of Melbourne.*

*The amendment will ensure that new development is consistent with the long term vision to protect the heritage significance and low scale of Bourke Hill while an amendment to introduce permanent controls undergoes a separate process.*

Amendment C240 was underpinned by the *Bourke Hill Precinct Heritage Review* (2014) and the *Bourke Hill Heritage, Planning and Urban Design Review* (September 2014). The Panel Report into Amendment C240 considered the gradings proposed for specific heritage buildings, the role of 'buffer' sites and, importantly for Swan Street, mandatory versus discretionary built form controls.

Like the Panel considering Moreland Amendment C134 this Panel concluded:

- *Height controls designed to protect the special urban and urbane characteristics and amenity of the Precinct are warranted.*
- *There is strategic justification for the application of a mix of discretionary and mandatory height controls in parts of the Precinct.*
- *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. (pv)*

The Panel Report goes on to address heritage buildings that already exceed a mandatory height limit and recommend that:

*In addition to height limits, the Panel recommends some wording changes should be made to the Amendment documentation, including adding a 'like for like' clause allowing the replacement to the same height, of buildings which, upon the approval date, are already in excess of the new mandatory height limit. (pv)*

The Panel also considered the use of mandatory controls in the context of PPN 59 and the tests contained within it, specifically:

1. Is the mandatory provision strategically supported?
2. Does the proposed measure have a sound strategic basis having regard to the planning objective to be achieved and the planning policy framework generally?
3. Does the proposed mandatory measure clearly implement a policy or achieve an objective rather than just being a prescriptive tool?

The Panel concluded that mandatory controls proposed in Amendment C240 were strategically justified and could be directly linked to policies at State and local level. The Panel went on to refer to the findings of the Panel considering Bayside Amendment C113, C114 and C115 – 'Mandatory provisions for the Sandringham Village, Bay Street and Church Street Activity Centres' (14 January 2015) and their conclusion that:

- *The Victoria Planning Provisions continue to be performance based*
- *Mandatory provisions should be applied in exceptional circumstances and only where justified and necessary*
- *PPN59 and PPN60 are current and relevant for assessing whether mandatory provisions should be applied*
- *Preferred maximum heights are not to be exceeded unless the proposal provides an exemplary response to the site, its context, design objectives and other policy in the planning scheme (pp15-16)*

In relation to the appropriateness of the use of the DDO to include heritage considerations, the Panel concluded:

*The Panel does not consider that it is inappropriate to include heritage objectives in a DDO.*

*Clearly DDO objectives which might seek only to conserve heritage buildings would be inappropriate, as the absence of demolition control under a DDO would mean that this objective could ultimately be frustrated – albeit very restrictive height controls under a DDO might act to dissuade redevelopment of heritage sites. The HO is clearly the tool to apply in pursuance of heritage conservation of particular buildings of heritage significance. (p100)*

### Appendix 3: Recent VCAT decisions

*Richmond Icon Pty Ltd v Yarra CC [2011] VCAT 2175* and *429 Swan Street Pty Ltd v Yarra CC [2016] VCAT 370* consider new development within the Swan Street Precinct (HO335) and the proposed Burnley Street Precinct (HO474) respectively. Both cases consider the issue of acceptable versus ideal planning outcomes and the balance that must be struck between the protection of heritage values and the competing objectives of accommodating higher built form and increased density and housing provision.

#### Richmond Icon Pty Ltd v Yarra CC [2011] VCAT 2175

*Richmond Icon Pty Ltd v Yarra CC [2011] VCAT 2175* is a ‘Red Dot’ decision that considered the impact of a proposed 10 storey development on the Dimmeys Building at 140-160 Swan Street within HO335 – Swan Street Precinct. In this case, due to Dimmeys inclusion in the VHR, neither Council nor the Tribunal directly considered the impacts of the development on the heritage values of the place. These considerations occurred through the permit process under the Heritage Act, which resulted in a permit being issued for the development by the Executive Director, Heritage Victoria.

After considering the impact of the development on the Swan Street context and its impact on the views to the Dimmeys Tower, the Tribunal concluded that the design was acceptable and directed Council to issue a permit for the development.

The summary of the decision notes:

*The local planning policy framework seeks an outcome of pockets of taller buildings amongst a generally low rise built form environment and we find the proposal achieves this policy outcome. The design responds to its context by being different to the surrounds. It has an elliptical form that is simplistic and a glass surface that is calm. These attributes ensure the tower does not compete with the heritage facades of Swan Street or the Dimmey’s clock ball tower and reveals the modern structure for what it is.*

The Tribunal found “...that the tower is an acceptable and appropriate addition to the local area, including the adjacent low rise heritage streetscape of Swan Street.” (para. 4). Specifically, in terms of the new built form within the Swan Street context and the Dimmeys tower, the Tribunal found:

57 *We agree with the Council that the Swan Street streetscape reflects its largely Victorian era, with predominantly two and three storey buildings on relatively narrow lots. We also agree that this streetscape character will be influenced by the Heritage Overlay that extends along both sides of Swan Street. Within the streetscape there is also finer decorative patterns of doors, windows, parapets and corbels, and the Dimmey’s building contains all of these traditional finer Victorian details but without the vertical patterning and variation created by individual, small fronted buildings.*

58 *In our view, the use of a “calm” glass surface for the tower as backdrop to the heritage facades of the Dimmey’s building and the general Swan Street streetscape is appropriate. It does not compete with the heritage facades and reveals the modern structure for what it is. We believe that the detailing of the curtain wall with its pattern of glass and openings will, subject to care, strike an appropriate balance between calmness and a subtle visual interest. We find the use of the glass tower’s elliptical form also assists as its simplicity will provide a complementary contrast to the Victorian detailing in the foreground.*

...

60 *Within the local planning policy framework, it is evident that this built form relationship is contemplated and provided for. As such, we conclude the proposed 10 storey glass tower is acceptable because of its simple elliptical form, calm glass façade and generous setback from*

Swan Street.

61 *One of the most controversial aspects of this proposal is the relationship between the proposed glass tower and Dimmey’s ball tower.*

...

65 *The content of the [Landmark and Tall Structures] policy leads us to conclude that it does not require there to be no visible structure near Dimmey’s ball tower, but rather that the ball tower remain “the principal built reference”. We are of the view this means any nearby structure should be visually subservient to the ball tower having regard to the ball tower’s architectural complexity, richness of detailing and its position on the street frontage. The question then becomes in which views does the new tower need to be visually subservient? We agree with the findings of the Tribunal in Crema Group that the policy is not intended to preserve and protect every possible view from public spaces. We also agree with the findings of the Tribunal in Cremorne Corporation that key or important views need to be carefully dealt with, not every incidental view.*

66 *Many of the experts before us agreed the key or important views were those from Swan Street, particularly looking west toward the ball tower. Mr Czarny was the only expert who formed the view the proposal was unacceptable having regard to clause 22.03. Mr Biacsi, Mr Deutscher and Professor Reed concluded the new tower will not unreasonably impact upon the landmark status of the ball tower. We are persuaded particularly by Mr Deutscher’s analysis that:*

- . *There are relatively few places from which the ball tower can be well viewed and that not all views are of equal worth;*
- . *Swan Street views are critical to its public appreciation; and*
- . *Views of less or little value include the view from White Park, to the south across the railway line, a park that by comparison has relatively minor use and from which the ball tower, while visible, is not a critical skyline feature.*

...

68 *The view analysis submitted with the application (in the urban context report) demonstrates how the generous setback of the proposed new tower from Swan Street ensures the two tall elements will be distinct in the majority of the views along Swan Street. Indeed, there will be a number of views along Swan Street where the ball tower will be seen without any view of the glass tower. We agree with Ms Brennan the new tower may form a backdrop to the ball tower when standing in various locations on the opposite side of Swan Street looking south (including other streets that run north-south off Swan Street). However, we are of the view the ball tower will remain, even then, the principal built reference as it is in the foreground and has significant detailing that will contrast with the ‘calm’ glass facade.*

69 *We therefore conclude that the proposed 10 storey glass tower is acceptable in terms of its relationship with the Dimmey’s ball tower.*

## **429 Swan Street Pty Ltd v Yarra CC [2016] VCAT 370**

429 Swan Street Pty Ltd sought review at VCAT against a condition requiring setbacks from the Swan Street boundary. This matter was considered by VCAT prior to the Panel hearing into Yarra Amendment C183 which sought to introduce Heritage Overlay controls to the Burnley Street Precinct (HO474) and the subsequent adoption of the Amendment by council on 23 August 2016. Therefore, the heritage considerations in Clause 43.01 were not considered relevant on the basis “*there is ... uncertainty about whether a precinct control will come into effect and the subject land is not itself adjacent to a contributory building*”.

The subject land is within a block (between Cutter Street and Burnley Street) with eight other buildings that

front Swan Street. The existing street wall height is between one and two Victorian storeys high (equivalent to three modern storeys). The City of Yarra issued a permit for the development of 429-437 Swan Street for the construction of town houses and one multi-storey building with food and drink premises at ground floor, shops, and dwellings, however the permit applicant sought a review of conditions requiring setbacks from Swan Street of the third, fourth and fifth levels.

As proposed, the apartment building would have a five level street wall to most of the Swan Street frontage, with a further level slightly recessed (being set back 1.6m). Through the conditions it applied Council sought a three level street wall or podium.

While 413-415 Swan Street were already included within the Heritage Overlay (HO442) no weight was given to the proposed Burnley Street Precinct (HO474). The Tribunal found:

- 28 *However, Ms Thomas highlighted that Ms Swarup's advice was based on there being 'no heritage restrictions in the immediate area'. She also queried whether Ms Roberts was aware of new or proposed heritage controls – a heritage overlay (HO442) covering the two significant heritage buildings at Nos. 413-415 Swan Street and the eight properties to the west of the subject land in a proposed precinct control (Burnley Street Precinct). Ms Thomas submitted that given the heritage values of most of the properties to the west of the subject land, it cannot be assumed that they will be developed with higher built forms. She suggested that any future redevelopment at Nos. 413-415 Swan Street will need to maintain the front facades, with new buildings set back behind the façade/street wall. She also saw that as a likely scenario for the contributory buildings. Ms Thomas argued that at least two buildings, probably those either side of them, and potentially all eight buildings, will maintain a three modern storey street wall height as part of any future development. Ms Thomas submitted that it follows from that analysis that to achieve a consistent street wall height, as sought by the Structure Plan, the development on the subject land should provide an equivalent three storey street wall.*
- 29 *I acknowledge that the internal and external urban design advice received by the Council does not appear to have considered heritage matters. The existence of HO442 will mean that at least the facades of the two significant buildings will be retained. There is, however, uncertainty about whether a precinct control will come into effect and the subject land is not itself adjacent to a contributory building. In any event, heritage considerations are matters to be balanced against other objectives.*